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Report of the Special Rapporteur on extreme poverty and human rights on his mission to Chile: comments by state

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the comments by the State on the report of the Special Rapporteur on extreme poverty and human rights on his mission to Chile.

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Report of the Special Rapporteur on extreme poverty and human rights on his mission to Chile: comments by state*

Comentarios del Gobierno de Chile al Informe de la Visita Oficial del Relator Especial sobre la Extrema Pobreza y los Derechos Humanos, Sr. Philip Alston

La presente minuta comprende los comentarios del Gobierno de Chile al documento borrador del Informe del Relator Especial sobre la Extrema Pobreza y los Derechos Humanos, Sr. Philip Alston, documento A/HRC/32/INFORMAL/1, relativo a su visita realizada al Estado de Chile entre el 16 al 24 de marzo de 2015.

El documento ha sido elaborado por la Dirección de Derechos Humanos del Ministerio de Relaciones Exteriores, consolidando las observaciones y/o comentarios formulados por el Ministerio de Desarrollo Social y el Ministerio del Interior y Seguridad Pública (Departamento de Extranjería y Migración).

Para efectos metodológicos y con el objeto de facilitar su comprensión, se hace referencia a los párrafos del informe respecto de los cuales se realizan los comentarios y observaciones.

I. Comentarios del Ministerio de Desarrollo Social

Al párrafo 9:

Este párrafo hace referencia a la evolución en las cifras de pobreza por ingresos entre 1990 y 2013. Las cifras coinciden con las informadas por el Ministerio de Desarrollo Social en enero de 2015, sobre la base de la serie de la encuesta de Caracterización Socioeconómica Nacional (Casen 1990 a 2013). Sin embargo, es importante precisar que a partir de enero de 2015 la metodología oficial de medición de la pobreza en Chile es tanto por ingresos como multidimensional y no sólo por ingresos como se ha señalado en el documento borrador del informe. Es necesario precisar que si bien la tasa de pobreza se estima en un 20,4% de la población el año 2013, Chile utiliza enfoques metodológicos de mayores niveles de exigencia. La medición de la pobreza por ingresos corresponde a una medida de pobreza absoluta, que impone estándares más altos, pues considera hábitos de consumo actualizados, iguala las líneas de pobreza rurales a las urbanas, redefine la línea de pobreza extrema e incluye corrección de no respuesta en variables de ingresos, a la vez que asume que los gastos de los hogares no aumentan proporcionalmente con su número de integrantes.

La metodología de medición de pobreza multidimensional se basa en el enfoque de Alkire y Foster, que considera cuatro dimensiones del bienestar, a saber, Educación, Salud, Vivienda, y Trabajo y Seguridad Social. El lanzamiento de esta metodología se realizó a partir de la encuesta Casen 2013. Para analizar la evolución reciente de la pobreza, se aplicó además a la serie Casen 2006-2009-2011-2013 en lo referido a pobreza por ingresos, y por razones de comparabilidad, a Casen 2009-2011-2013 en la medición multidimensional. Estas metodologías más exigentes, han revelado una caída significativa en el porcentaje de personas que se encuentran en situación de pobreza por ingresos en los últimos años, reduciéndose la tasa de pobreza de 29,1% en 2006 a 14,4% en 2013, y la tasa de pobreza

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extrema de 12,6% a 4,5% en igual período; complementariamente, la incidencia de la pobreza multidimensional ha caído desde de 27,5% de la población en 2009 a 20,4% en 2013, como reflejo de la reducción del porcentaje de hogares que presentan carencias en 3 o más de los 12 indicadores de pobreza multidimensional (caída de 22,2% a 16,0% de los hogares).

Al párrafo 10:

Cabe precisar que la encuesta Casen es una encuesta de corte transversal, por lo cual no permite realizar análisis longitudinales, como se efectúan en el presente informe.

Al párrafo 13:

La observación efectuada en el informe respecto a que *"El coeficiente de Gini se ha mantenido en torno al 0,5 y los indicadores que miden la relación entre el ingreso del decil de mayores ingresos y el ingreso del decil más bajos apenas han mejorado"* no es del todo correcta. Como se señaló anteriormente, en enero de 2015 el Ministerio de Desarrollo Social difundió una nueva metodología oficial de medición de ingresos corrientes de los hogares a partir de Casen 2013. Los principales cambios en esta metodología son el perfeccionamiento del proceso de corrección por no respuesta, y la no inclusión de un ajuste a cuentas nacionales de los ingresos de las personas (y, por tanto, de los hogares) recolectados por la encuesta. Según esta metodología, el coeficiente de Gini de los ingresos autónomos (autogenerados) de los hogares fue de 0,504, cifra similar al 0,505 registrado el 2006. En cambio, al agregar transferencias monetarias del Estado en los ingresos de los hogares, el coeficiente de Gini de los ingresos monetarios (autónomos más subsidios monetarios) es de 0,491 el 2013 en comparación con el 0,499 el año 2006. Complementariamente, se observa que la razón entre el 10% de los hogares de mayores ingresos y el 10% de menores ingresos es de 29,1 veces el 2013 y de 27,6 veces el 2006, cuando se consideran los ingresos autónomos de los hogares, y de 17,1 veces el 2013 comparado con 20,1 veces el 2006 al medir desigualdad de ingresos monetarios de los hogares.

Al párrafo 20:

En relación a la fragmentación de los programas contra la pobreza, el documento señala que: *"...la labor del Gobierno contra la pobreza parece estar excesivamente fragmentada entre los principales Ministerios..."*

En este punto es necesario efectuar ciertas precisiones. Es cierto que el vasto número de programas y prestaciones sociales generados por distintas instituciones públicas ha generado falta de coordinación y duplicidad de trabajo entre las distintas reparticiones públicas. Por ello, se han generado instancias que permiten ir revisando la oferta de programas y prestaciones sociales y la coordinación y complementariedad entre ellos. Entre estas instancias se pueden señalar el **Comité de Ministros de Desarrollo Social** y los procesos de evaluación de programas nuevos y reformulados y de monitoreo de programas sociales. Esta labor ha mejorado en forma ostensible la coordinación y la articulación de los diferentes programas sociales.

Conforme a lo establecido en la Ley N° 20.379 el objetivo del Sistema de Protección Integral a la Infancia Chile Crece Contigo es "acompañar el proceso de desarrollo de los niños y niñas que se atiendan en el sistema público de salud, desde su primer control de gestación y hasta su ingreso al sistema escolar, en el primer nivel de transición o su equivalente". Por lo tanto, su ámbito de acción es bastante más amplio y debe ser evaluado en función de los objetivos que pretende alcanzar, más allá de sólo acabar con la pobreza.

Por otra parte, es importante aclarar que en la actualidad no existe una Secretaria Ejecutiva de Protección Social, sino una División de Promoción y Protección Social, establecida mediante el Decreto N° 15 (11 de julio 2013), que corresponde al Reglamento

que fija la estructura del Ministerio de Desarrollo Social, creado por la Ley 20.530 (2011); dicho reglamento, en su Artículo 22, señala que la División de Promoción y Protección Social tendrá a su cargo la administración, coordinación y supervisión del Sistema Intersectorial de Protección Social, c que se refiere la ley N° 20.379, y de sus subsistemas.

Al párrafo 45:

En relación a que la Encuesta Casen no recoge la "orientación sexual ni la identidad de género", se debe hacer presente que en el cuestionario de la Encuesta Casen 2015, cuyo levantamiento se realizó entre noviembre del 2015 y enero del 2016, se incorporó un conjunto de modificaciones orientadas a considerar en este instrumento diferentes aspectos vinculados a la diversidad sexual, referidos a la inclusión de preguntas sobre orientación sexual e identidad de género, modificación de las instrucciones al encuestador para la pregunta sobre sexo; incorporación de nuevas categorías de respuesta en las preguntas sobre parentesco de los integrantes del hogar con el jefe de hogar, y con el jefe de núcleo (familia), que permiten identificar parejas del mismo sexo tanto de jefes de hogar como de jefes de núcleo; actualización de categorías de estado civil y conyugal de todos los miembros, incluyendo la categoría conviviente civil (con Acuerdo de Unión Civil), estado civil aprobado mediante Ley N° 20.830 promulgada el 13 de abril de 2015 y la incorporación de pregunta sobre trato injusto o discriminación a algún miembro del hogar, considerando entre las posibles razones su orientación sexual o identidad de género.

Al párrafo 53:

La apreciación formulada en el informe en el sentido de *que "el Estado no sepa a ciencia cierta cuántos son sus ciudadanos indígenas resulta sintomático..."* debe ser objeto de análisis. Desde el año 1996, la Encuesta de Caracterización Socioeconómica Nacional (Casen) contiene preguntas asociadas a la pertenencia a pueblos indígenas. Lo anterior, ha permitido aproximarse al tamaño y caracterización socioeconómica de la población que se autodeclara como perteneciente a alguno de los 9 pueblos reconocidos por la Ley Indígena en Chile (Ley 19.253) para cada año de aplicación de la misma. Es preciso destacar que en los últimos años se ha observado un aumento en el número y proporción de la población indígena estimada a partir de datos Casen, lo que puede explicarse por un aumento en la auto afirmación de la población indígena a partir de una conjunción de varios fenómenos, dentro de los cuales, está la política indígena implementada desde el año 1993 con la promulgación de la Ley Indígena.

Este mismo ejercicio de análisis debe hacerse respecto a la apreciación efectuada de "*En 2013, su tasa de pobreza por ingresos (población indígena) prácticamente doblaba la de la población no indígena (un 23,4% frente a un 13,5%)*". En este punto es pertinente señalar que en 2006 la brecha entre ambas poblaciones era de 16 puntos porcentuales; mientras que en 2013 la brecha se reduce a 9,9 puntos porcentuales. Asimismo, las estimaciones de pobreza multidimensional, si bien para el año 2013 muestran brechas entre los hogares encabezados por jefes de hogar pertenecientes a pueblos indígenas y quienes no pertenecen a ellos, 27,4% y 15,1% respectivamente; en 4 años -entre 2009 y 2013- la brecha se reduce de 17,3 a 12,3 puntos porcentuales.

Al párrafo 60:

Al señalar en este párrafo que *"...existe una patente ausencia de marcos legislativos coherentes y políticas integrales que regulen la situación de los migrantes, por no hablar ya de sus derechos"*. Al respecto, es importante destacar que dentro del contenido del Programa de Gobierno 2014-2018 en materia migratoria, la promoción y aplicación de los instrumentos internacionales ratificados por Chile es un objetivo prioritario, por lo tanto es consciente de que una normativa marco en la materia debe posibilitar el fortalecimiento de la institucionalidad migratoria en regiones y comunas con mayor presencia migratoria con la finalidad de desarrollar mejores políticas públicas. El Gobierno está en proceso de

elaboración de un nuevo proyecto de Ley basado en el enfoque de derechos, la inclusión social, la integración regional y el cumplimento de los compromisos internacionales asumidos en la materia.

Al párrafo 61:

El precitado informe señala que *"en lugar de elaborar un marco legislativo, el Gobierno de Chile ha adoptado varias medidas administrativas ad hoc para regular el acceso de los migrantes a los diversos servicios, en particular a la educación y salud"* sin mencionar las prestaciones que forman parte del Sistema de Protección Social en el país, establecidas por Leyes y sus respectivos reglamentos y convenios. En 2014, el Ministerio de Desarrollo Social crea la Unidad de Migración e Inclusión Social, dependiente de la Subsecretaría de Servicios Sociales, siendo su principal objetivo promover la inclusión de la población inmigrante vulnerable, bajo un enfoque de derechos, regularidad migratoria e igualdad de acceso a programas sociales.

Cabe señalar que con fecha 6 de noviembre 2015, S.E. firma **el Instructivo Presidencial N° 5, que establece los "Lineamientos e instrucciones para la Política Nacional Migratoria"**, que tiene por finalidad "complementar y actualizar las instrucciones impartidas sobre la materia durante el año 2008, desarrollando nuevos ejes para la política migratoria y estableciendo instrucciones para la implementación de un sistema nacional sobre migraciones el fortalecimiento de la institucionalidad existente y la puesta en práctica de un plan nacional de acción sobre la materia". Los ejes establecidos para guiar la acción gubernamental en materia de inmigración y emigración son: 1) Enfoque transversal de derechos humanos; 2) Enfoque transversal de género; 3) Principio de No discriminación y de Consideración de los grupos vulnerables; 4) Acceso a la Justicia en Condiciones de igualdad; 5) Chile país intercultural; 6) Regularidad Migratoria; 7) El empleo como mecanismo de inserción social; 8) Facilitación de la movilidad de las personas, del conocimiento para el desarrollo y la innovación; 9) Integralidad de la política y gestión migratoria; 10) Vinculación y asociatividad para los nacionales residentes en el exterior; 11) Responsabilidad compartida; 12) Participación en las políticas migratorias; 13) Chile país de asilo y refugio; 14) Migración segura; y 15) Registro e información como soporte de la política migratoria.

En 2014 se crea **el Consejo Nacional de Política Migratoria (CPM)**, mediante el decreto Supremo N°1393, comisión asesora de carácter permanente cuyo objetivo es elaborar la Política Migratoria Nacional y coordinar las acciones, planes y programas de los distintos actores institucionales en la materia.

En este contexto, se creó un Consejo Técnico de Política Migratoria, formalizado a través del Decreto N°108 del año 2015 del Ministerio del Interior y Seguridad Pública. El objetivo de esta instancia es la generación de propuestas temáticas e insumos sectoriales que permitan tanto la discusión y la toma de decisiones del Consejo Ministerial, como la ejecución e implementación de dichas decisiones en todos los organismos del Estado; se compone por siete grupos de trabajo que buscan abordar el fenómeno migratorio en toda su complejidad, siendo estos grupos: Inclusión e Interculturalidad, Inclusión Social, Laboral e innovación, Asuntos Internacionales y Derechos Humanos, Participación, Coordinación con Política de Emigración, Información y Seguimiento de Políticas Migratorias. Lo anterior tiene por objeto proveer la agenda a ser tratada por el CPM y propiciar las condiciones técnicas que permitan la ejecución e implementación de la Política Migratoria Nacional.

El Ministerio de Desarrollo Social, a través de la Unidad de Migración e Inclusión Social, encabeza el Grupo de Trabajo de Inclusión del Consejo Técnico de Política Migratoria en el que participan, entre otros, el Ministerio de Educación, Ministerio de Vivienda y el Ministerio de Salud y, cuya finalidad es que los inmigrantes accedan a los derechos económicos, sociales y culturales.

Por otra parte, desde el 2015, se han constituido en las distintas regiones del país Mesas Regionales de Migración e Inclusión Social, encabezadas por los respectivos Secretarios Regionales de Desarrollo Social. Su función es conocer la realidad migratoria de sus territorios, articular y difundir la oferta intersectorial de programas para el acceso a la población inmigrante, con enfoque de derechos.

Al párrafo 74:

El Relator Especial insta al Gobierno a que respete las obligaciones que le impone el Convenio N° 139 sobre Pueblos Indígenas y Tribales de la OIT, observando que Chile no estaría dando cumplimiento acabado de esta normativa. En relación a dicha recomendación, se debe hacer presente que mediante Decreto Exento N° 0259 de fecha 04 de noviembre del 2014, el Ministerio de Desarrollo Social aprobó el Proyecto denominado "Fortalecimiento de capacidades de la Unidad de Participación y Consulta del Ministerio de Desarrollo Social", el cual fue suscrito por el Ministerio de Desarrollo Social, el Ministerio de Relaciones Exteriores, y el Programa de Naciones Unidas para el Desarrollo (en adelante PNUD). Dicho proyecto tiene por objetivo fortalecer las capacidades de la Unidad de Participación y Consulta Indígena del Ministerio de Desarrollo Social con la finalidad de generar acciones orientadas hacia el reconocimiento pleno y la protección de los derechos de los Pueblos Indígenas consagrados en los instrumentos internacionales suscritos por Chile. Su ejecución comenzó en el año 2015.

Mediante Decreto Exento N° 0307 de fecha 30 de diciembre de 2015, el Ministerio de Desarrollo Social aprobó el proyecto **"Apoyo a la generación de espacios de Diálogo entre pueblos indígenas y el sector público"** el cual tiene entre sus objetivos implementar un Programa de difusión y capacitación de instrumentos internacionales en materias indígenas para dirigentes indígenas y funcionarios/as públicos, en coordinación con el Ministerio de Relaciones Exteriores.

Durante el 2016 se ha proyectado implementar diversos programas de difusión y capacitación de instrumentos internacionales en materias indígenas para dirigentes indígenas y funcionarios/as públicos, para de esta manera propiciar un mayor conocimiento de la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas.

Al párrafo 75:

Los niveles de pobreza experimentados por las comunidades indígenas requieren ser abordados desde una perspectiva multidimensional, por ello el Relator Especial ha recomendado al Gobierno de Chile *"...exigir al Ministerio de desarrollo Social que elaborase una completa estrategia para la eliminación de la pobreza de los pueblos indígenas en consulta con todos los grupos interesados..."*. En este punto es necesario remarcar que la actual administración ha duplicado el presupuesto del Fondo de Tierras de CONADI, pasando del orden de los US$ 65 millones (a $681/dólar de Estados Unidos de América), a US$ 123 millones en el presupuesto de este año (ver Gráfico 2 en anexos). El Estado Chileno ha transferido a las comunidades indígenas desde la creación de la CONADI, aproximadamente 850 mil hectáreas. De esta cifra, 250 mil hectáreas corresponden a predios adquiridos mediante el Fondo de Tierras y Agua de CONADI y 600 mil hectáreas han sido transferencias de propiedad fiscal desde bienes nacional a CONADI, y de esta última a comunidades.

Al párrafo 76:

En lo relativo a la creación de la institucionalidad en materia indígena, se debe informar que el 11 de enero de 2016, la Presidenta de la República S.E. Michelle Bachelet Jeria, firmó los Proyectos de Ley que crean el Ministerio de pueblos Indígenas y el Consejo de Pueblos Indígenas. El Ministerio de Pueblos Indígenas colaborará con el Presidente de la República, en el diseño, coordinación y evaluación de las políticas, planes y programas

destinados a implementar, promover y fortalecer los derechos de los pueblos indígenas, su desarrollo económico social, político y cultural, procurar la eliminación de toda forma de discriminación arbitraria. El Consejo Nacional y los nueve Consejos de Pueblos Indígenas han sido creadas como instituciones representativas que contaran con atribuciones, resolutivas, facultativas, y vinculante sobre su propia orgánica y cuyo objeto será representar los intereses, necesidades y derechos colectivos de los pueblos indígenas a nivel general ante los organismos del Estado (ver documento anexo).

Al párrafo 77:

El Relator Especial ha señalado que la representación política de los Pueblos Indígenas en el Congreso no es coherente con el porcentaje de su población, debido a que no hay representantes en el Senado y en la Cámara de Diputados. En la actualidad la señora Yasna Provoste, de origen diaguita, es diputada por el Distrito n° 6. A nivel nacional es posible constatar la presencia de 17 alcaldes de origen indígena, lo cual equivale a 4,9% de total de alcaldes del país. A nivel comunal, desde las elecciones municipales de 2012, se ha observado un incremento en la representación política.

Al Párrafo 78:

En materia de los Principios rectores sobre las Empresas y los Derechos Humanos, el Gobierno inició a fines del 2015 un proceso liderado por el Ministerio Relaciones Exteriores, en conjunto con el Ministerio de Desarrollo Social, para la elaboración del primer Plan de Acción Nacional de Derechos Humanos y Empresas de Chile. Este "Plan de Trabajo 2016" describe las actividades que se deberán realizar a lo largo del año, para elaborar de forma transparente y participativa este primer Plan de Acción Nacional de Derechos Humanos y Empresas de Chile, para lo cual se ha considerado la participación indígena de conformidad al artículo 7 del Convenio 169 de la OIT.

Al párrafo 81:

Respecto a la recomendación de crear una entidad especial para coordinar la política de Gobierno sobre la situación del niño, es necesario informar que el 21 de septiembre del 2015, S.E. la Presidenta de la República, Michelle Bachelet, firmó dos iniciativas claves en la materia: **el Proyecto Ley que crea Subsecretaría de la Infancia** y el que establece **el Sistema de Garantía de Derechos de los Niños y Niñas**.

La Subsecretaria tendrá por misión promover, proteger y restituir los derechos de los niños y de las niñas. Además, coordinará las acciones y los programas que atienden a dicha población, apuntando al carácter universal e integral de la protección de la niñez. El Proyecto de Ley que establece el Sistema de Garantías de los Niños y Niñas, busca garantizar la protección de derechos de niños, niñas y adolescentes contemplados en la Constitución, en la Convención sobre los Derechos del Niño y otros tratados internacionales que Chile ha ratificado.

Al párrafo 82:

En sus conclusiones el *Relator "...insta al Gobierno que otorgue prioridad a la reforma de las políticas y los programas sobre la educación en la primera infancia dentro del conjunto de reformas educacionales previstas..."*. En esta materia, es necesario destacar la reciente creación de la **Subsecretaría de Educación Parvularia y la Intendencia de Educación Parvularia** (Ley N° 20.835, 2015). La primera será "el órgano de colaboración directa del Ministro de Educación en la promoción, desarrollo, organización general y coordinación de la educación parvularia de calidad para la formación integral de niños y niñas, desde su nacimiento hasta su ingreso a la educación básica". Respecto de la segunda, la ley indica que "La organización interna de la Superintendencia considerará una Intendencia de Educación Parvularia, cuya función será elaborar los criterios técnicos que permitan orientar el ejercicio de las atribuciones de aquella respecto de establecimientos

educacionales que impartan educación parvularia y que cuenten con reconocimiento oficial del Estado o la autorización, en su caso."

II. Comentarios del Ministerio del Interior y Seguridad Pública (Departamento de Extranjería y Migración)

A los párrafos 59 al 63:

Como bien señala el referido informe, la Ley de Extranjería vigente data del año 1975, la cual regula principalmente el ingreso y estadía de extranjeros en el país, con un sesgo más bien policial y controlador que respondía a una realidad muy distinta a la actual. En los últimos años, Chile se ha transformado en un polo de atracción de la migración internacional, lo que significa que en la actualidad resida en el país una comunidad estimada de más de 410 mil personas, la mayoría de ellos entre 18 y 45 años y originarios fundamentalmente de países sudamericanos, que se trasladan con fines laborales y económicos. A lo largo del tiempo se puede observar que en los últimos treinta años se ha quintuplicando el número de extranjeros residentes en el país. Su caracterización ha evolucionado y ha sido posible observar cómo la migración internacional se viene diversificando especialmente en relación con el origen nacional de las comunidades.

En virtud de ello, el Ministerio del Interior y Seguridad Pública elaboró y presentó un proyecto de ley al Congreso Nacional el año 2013, el que fue aprobado en general por la Cámara de Diputados. No obstante, el actual Gobierno de la Presidenta Bachelet ha comprometido en su programa para el periodo 2014 - 2018, la modernización de la normativa e institucionalidad migratoria que incorpore un enfoque de derechos, integración de la comunidad inmigrante en Chile como país de acogida con un trasfondo de política exterior que promueve la integración regional como parte esencial de la política de desarrollo de nuestro país. Es por ello, que el Ministerio del Interior y Seguridad Pública está trabajando en la elaboración de un nuevo proyecto que responda a estos objetivos, para ser ingresado este año al Congreso. Sus lineamientos dicen relación con un cambio en el enfoque económico que tiene el proyecto presentado en el gobierno anterior, por un enfoque dirigido a la protección y garantía de los derechos humanos y la integración de los migrantes, de acuerdo al derecho internacional de los derechos humanos. También se pretende dar preponderancia a la integración de los migrantes, reconociendo la riqueza cultural que ellos aportan al país, además de ampliar el listado de derechos de los migrantes, a la luz de los instrumentos internacionales ratificados por Chile, como la Convención de Trabajadores Migratorios y sus Familias.

Otro aspecto relevante es el reconocimiento de la migración como un factor preponderante en el desarrollo económico del país, especialmente considerando que el principal motivo de nuestra migración es el laboral y por ende es importante contar con herramientas que permitan obtener el máximo beneficio para Chile de dicha migración, pero ello, sin desconocer las diferentes motivaciones de ésta y sus diversos escenarios, ya que el riesgo de excluirlas de la normativa puede significar un incentivo a la migración irregular, que es la que interesa sobremanera evitar. Lo anterior, implica entre otras cosas que la ley contemple una nueva estructura de visados, asegure un debido proceso administrativo en la aplicación de las sanciones migratorias, fortalezca de manera más profunda la institucionalidad que atiende los asuntos migratorios, incluyendo la generación de una política migratoria expresa y transversal.

Cabe hacer presente que para el Ejecutivo es importante considerar en este proyecto de ley los aportes de las organizaciones de migrantes, entidades pro – migrantes, la academia, y en general de los más amplios sectores de la sociedad civil.

En esa línea, es que a partir de octubre del año 2014 se dio inicio a los encuentros consultivos, para discutir con los distintos actores de la sociedad civil temáticas ligadas con la reforma migratoria. En este sentido, es necesario mencionar, en primer término, el éxito de dicha iniciativa, que se refleja en la amplia participación de la comunidad en los encuentros organizados. Es así como se cuenta la participación de 621 organizaciones de migrantes, centros de estudios, gobiernos locales y organizaciones internacionales, en 8 encuentros desarrollados en 6 regiones del país y en el que se recibieron 196 propuestas sobre temáticas que la sociedad civil busca priorizar en la reforma migratoria. Todas estas observaciones fueron sistematizadas por el Departamento de Extranjería y Migración para que ser tenidas en cuenta en el proceso de elaboración de la reforma legal que prepara el gobierno.

Al párrafo 84:

En relación a las conclusiones que señala el informe, podemos informar que el Ministerio del Interior y Seguridad Pública es el encargado de proponer la política nacional migratoria o de extranjeros, de acuerdo a lo dispuesto en el artículo 91 N°1 del D.L. N°1094 de 1975, Ley de Extranjería. Además, el artículo 93 del mismo cuerpo normativo establece que le corresponderá al Departamento de Extranjería y Migración, ejecutar los decretos, resoluciones, órdenes e instrucciones que dicte el Ministerio del Interior en conformidad a esta ley y su Reglamento.

Ahora bien, aun cuando no hay un solo ministerio dedicado específicamente a la migración, como señala el relator, ya que sus problemáticas atraviesan distintas disciplinas, el año 2015 se ha constituido un Consejo de Política Migratoria, compromiso establecido en el Instructivo Presidencial N° 9 de 2008 y que ha sido formalizado por la Presidenta de la República a través del Decreto N° 1.393 de 2014. Dentro de sus finalidades, está la de efectuar propuestas para elaborar la política nacional migratoria y coordinar las acciones, planes y programas de los distintos actores institucionales en la materia.

El Consejo de Política Migratoria es liderado por el Ministro del Interior y por el Subsecretario del Interior como secretario ejecutivo y cuenta con la participación de los ministerios con mayor incidencia en materia migratoria (Relaciones Exteriores, Salud, Desarrollo Social, Servicio Nacional de la Mujer, Defensa, Secretaría General de la Presidencia, Hacienda, Trabajo, y de Justicia).

Este Consejo ha manifestado la necesidad de modificar la legislación vigente para hacerla acorde con un enfoque de derechos humanos y con las necesidades del Chile actual. Asimismo, reconoce la importancia de crear una política integral, que resuelva el tema con una mirada multisectorial. Conforme a lo anterior, cada uno de los ministerios ha acordado mandatar al Consejo Técnico como encargado de la coordinación de las agencias estatales y que tiene como objetivo principal, proponer una agenda temática y proveer de insumos técnicos sectoriales para el funcionamiento del Consejo Político. El Consejo Técnico se encuentra en funcionamiento desde enero de 2015 y para su implementación se han establecido 7 áreas temáticas: Inclusión e Interculturalidad, Inclusión Social, Laboral e Innovación, Asuntos Internacionales y Derechos Humanos, Participación, Coordinación con Política de Emigración, Información y Seguimiento de Políticas Migratorias. Actualmente, este se encuentra trabajando en la elaboración de un Plan de Acción Nacional sobre migraciones.

Por otra parte, en lo relativo a la generación de políticas integrales y transversales que aborden el tema migratorio, cabe destacar, la actualización del Instructivo Presidencial N° 9 de 2008 por medio del Instructivo N° 5 de 2015. Este instructivo fija lineamientos e instrucciones aplicables a todos los órganos de la administración del Estado, en particular consagra 15 ejes prioritarios y 4 instrucciones específicas sobre gestión migratoria.

Finalmente, cabe señalar que en esta misma línea de cooperación interministerial en el tratamiento de los migrantes, así como la generación de acciones del ejecutivo, tal como lo señala el informe del relator australiano, existen una serie de convenios y políticas públicas desarrolladas por la autoridad administrativa, los cuales se encuentran plenamente vigentes y benefician a la comunidad migrante. Las principales iniciativas son:

- Convenio que facilita el acceso a la Salud a través del Régimen de Prestaciones de FONASA
- Suscrito entre el Ministerio del Interior y FONASA, este convenio permite a los ciudadanos extranjeros residentes en Chile, desde el momento mismo en que hacen su presentación de residencia, acceder al régimen de prestaciones de FONASA en calidad de beneficiarios.
- Iniciativa para igualar derechos en el acceso a la vivienda a la población Migrante
- Iniciativa del Ministerio de Vivienda y Urbanismo que permite a los inmigrantes postular a los beneficios habitacionales cumpliendo con los criterios de postulación de cualquier persona en Chile, siempre que sea titular de un permiso de permanencia definitiva. Con ello, se elimina el requisito adicional de una antigüedad mínima de 5 años como titular de permanencia definitiva antes de postular a un beneficio.
- Convenio para facilitar el acceso a la educación en los Gobiernos Locales
- Convenio suscrito entre el Ministerio del Interior y la Municipalidad de Santiago que permite que a través de las escuelas públicas de la comuna y su comunidad educativa se promueva la regularidad migratoria de los estudiantes y sus familias. Para lograr lo anterior se generará capacitación en materias migratorias a directores y docentes en los colegios y se generarán procedimientos especiales y acelerados de acceso a la residencia.
- Convenio de Colaboración SENAME DEM para el reconocimiento de la condición de refugiado
- Tiene por objetivo generar una protección especial y responder a las especiales condiciones de vulnerabilidad que presentan los niños, niñas y adolescentes solicitantes de reconocimiento de la condición de refugiado, asumiendo las autoridades de protección de la infancia en Chile, un rol de representación de los intereses de niños, niñas y adolescentes ante las autoridades migratorias.
- Iniciativa para el Reconocimiento de Nacionalidad de Hijos de Inmigrantes Residentes en Chile

El Gobierno de la Presidenta Bachelet ha buscado generar una interpretación del artículo 10 N° 1 de la Constitución Política de la República que establece una excepción al ius solis, para "hijos de extranjeros transeúntes" en el sentido que ésta se apegue al sentido natural del precepto, que no es otro que establecer que transeúnte es aquel que no tiene ánimo de residencia en Chile, como ocurre con las personas que tienen la calidad migratoria de turista y tripulante. Y no corresponde extender su aplicación a hijos de personas irregulares, situación que no debe afectar el derecho a la nacionalidad de los niños, niñas y adolescentes nacidos en territorio nacional.

- Exención de Multas a niños, niñas y adolescentes

Considerando los compromisos asumidos por Chile en relación con la protección de los derechos humanos, en particular lo establecido en la Convención sobre los Derechos del Niño y lo señalado en la legislación migratoria, que establece que es atribución del

Ministerio del Interior aplicar las sanciones administrativas que correspondan a las normas migratorias, se ha instruido a los Intendentes Regionales que se abstengan de sancionar a los niños, niñas y adolescentes extranjeros que infrinjan la normativa migratoria. Estas instrucciones han sido comunicadas a las autoridades competentes a través del Oficio Circular N°30722 de 10 de septiembre de 2014 del Jefe del Departamento de Extranjería y Migración del Ministerio del Interior.

- Visa Temporaria Por Motivos laborales

Se busca que la gestión migratoria considere los compromisos suscritos por Chile en relación con los derechos de los trabajadores migratorios, estableciendo un permiso que tenga como fundamento el desarrollo de actividades laborales, teniendo como requisito fundamental la existencia de un contrato de trabajo con un empleador domiciliado en Chile. Con este permiso se protegen los derechos de los trabajadores migrantes, evitando que queden irregulares por el solo hecho de finiquitar una determinada relación laboral, generándose un modelo más flexible y dinámico que permita tanto a trabajadores como a empleadores cumplir con la normativa laboral y migratoria.

- Reconocimiento de Uniones Civiles realizadas en el Extranjero en la obtención de permisos de residencia

Reconocimiento de la dignidad de las distintas formas de familia cualquiera que sea su configuración a través del cual se permite el acceso a un permiso de residencia temporal, siempre en carácter de titular, a aquellos que celebren un matrimonio en el extranjero, sin inscribirlo en Chile o un Acuerdo de Unión Civil, tanto en Chile como en el extranjero, sin hacer distinción en el sexo de los contrayentes para calificar la legitimidad del vínculo.

- Modificaciones al Reglamento de Extranjería

Destacan las siguientes:

- Rebaja de valores de los permisos de residencia para menores de 18 años.
- Gratuidad para permisos de residencia para víctimas del delito de trata de personas.
- Se elimina retención de documentación de identidad de los extranjeros infractores por parte de los organismos fiscalizadores, solo pudiendo retener la cédula de identidad chilena en caso que está vencida, o documentos de viaje para el solo efecto de materializar una medida de expulsión.

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on extreme poverty and human rights on his mission to Romania: comments by the State*

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the comments by the State on the report of the Special Rapporteur on extreme poverty and human rights on his mission to Romania.

* Reproduced as received.

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Report of the Special Rapporteur on extreme poverty and human rights on his mission to Romania: comments by the State

Comments of the National Institute of Magistracy:

During 2010-2014, National Institute of Magistracy (NIM) granted a special attention to the professional training provided to future judges and prosecutors (judicial trainees following initial professional training), as well as to in-service judges and prosecutors, on issues related to the topic of human rights, as shown below.

I. Initial training for future judges and prosecutors (judicial trainees)

The initial training of future judges and prosecutors is exclusively provided by the National Institute of Magistracy and it is organised and coordinated at national level for a two year period. The first year of study is common for future judges and prosecutors and it provides a general training.

The activity of the judicial trainees during the second year of training is organized within courts and prosecutor's offices attached to these courts, as well as in other institutions, under the guidance of the internship tutors – judges and prosecutors who are part of the Institute's training staff.

Within the NIM, the study of law is mainly practical, creating, as much as possible, the real conditions in which a judge/prosecutor carries out his/her activity.

Judicial trainees choose for their specialization – judge or prosecutor – after graduating the first year of study, in order of their ranking and according to the number of positions awarded by the Superior Council of Magistracy.

The initial training programme aims at promoting awareness of belonging to the profession by the following means:

- the study of ethics and deontology and of the fundamental principles of justice,
- the organization of common training activities with other judicial institutions,
- the development of programmes in cooperation with the institutions responsible with the training of the judiciary from other European countries.

During 2009 – 2010, 2010 – 2011, 2011 – 2012, 2012 – 2013 and 2013 – 2014 the training of judicial trainees was provided by NIM according to the initial training programmes – both for the first and for the second year of study – as approved by the Plenum of the Superior Council of Magistracy.

Starting 2004, the mandatory study of the European Convention on Human Rights was included in the curriculum, a number of hours being allotted to this discipline exclusively – debates (seminars), as well as conferences. This number was different from one year to another, according to the training needs in the field of the ECHR, as reflected below:

		Hours of training – seminars	*Hours of training – conferences*
2010 - 2011	ECHR	32	9
2011 - 2012	ECHR	42	9
2012 - 2013	ECHR	38	16
2013 - 2014	ECHR	38	16
2014 - 2015	ECHR	38	16

The course is aimed at offering an overview on the protection of human rights, on the European Convention on Human Rights through its case-law, on the specific concepts and terminology, on the means used to ensure the protection of the rights, on the means to ensure the balance between society and individual protection, on whether are there any common standards included in the national and international documents on human rights and on the evolution of the Court case-law in relation to the evolution of the social and legal standards of the Member States.

The continuous changes in the case-law of the European Court of Human Rights and in the national legislation, as a result of the said case-law are being constantly taken into account, with a view to making a comparative presentation of the ECHR dispositions.

At the end of the course, the judicial trainees are expected to identify the judicial matters related to the enforcement of ECHR, to be able to provide a legal and grounded solution of the concrete cases, to have the necessary skills for the drawing up of the procedural instruments using the rationale employed by the Court, to identify and settle the issues related to the violation of human rights in courts and the attached prosecutor's offices by the direct enforcement of the ECHR case law.

Nevertheless the aspects related to the protection of the fundamental rights, non-discrimination principle, equality between women and men and also, the judicial protection of human rights within European Union, are being discussed in the framework of the "EU Law" seminars.

A constant concern of NIM is the stress on the European component of the initial training, reflected as such in the activities addressed to judicial trainees. The following programmes are annually developed by NIM together with its internal and international partners:

a) the Exchange Programme for European judicial trainees, organized by the European Judicial Training Network (EJTN/REFJ);

b) study visits to the Court of Justice of the European Union;

c) traineeships to the European Court of Human Rights;

d) the THEMIS Competition for European judicial trainees, organized by the European Judicial Training Network (EJTN/REFJ);

e) the internal Essay Contest on the jurisprudence of the European Court of Human Rights - the two best contenders participate in a three months internship within the European Court of Human Rights, in Strasbourg.

II. Continuous training of judges and prosecutors

2010

In terms of the continuous training, in 2010 the NIM continued its approach adopted in 2009 and included as compulsory components of the agenda of the seminars dedicated to

the specialized training of magistrates a number of ECHR and community law topics, while previously such topics were only a sporadic presence in the seminars, according to the specific approaches of the seminar trainers. Thus, the agenda of the seminars on competition law, labor law, environment law, commercial law, administrative and financial –fiscal law or fighting discrimination also included community law topics. At the same time the agenda of the criminal law, criminal trial law, and civil law, justice for minor and environment law seminars included relevant topics from the ECHR practice.

A total number of **7 seminars** were organized especially in the *European Convention on Human Rights matters*. They were attended by 129 magistrates (88 judges and 41 prosecutors); 4 experts assimilated to magistrates, 3 assistant magistrates from High Court of Cassation and Justice. One seminar was included by NIM in the EJTN Catalogue for 2010 with the theme "Direct application of European convention of human rights by domestic courts in cases brought before them"; two seminars were supported by IRZ Foundation. Also, regarding the specialization, 4 seminars were dedicated to the ECHR – Criminal Matters and 2 seminars treated aspects regarding ECHR – Civil Matters.

2011

In 2011, NIM continues to recognize the importance of training magistrates on the *ECHR practice*, a field in which it shall further distinct training of civil and criminal aspects of the ECHR.

Taking into account the success of the seminar included in the EJTN Catalogue for 2010, for the 2011 EJTN Catalogue, the NIM included **3 seminars** on the *European Convention on Human Rights matters* (1 seminar regarding the "Media freedom and the Magistrates. Enforcement of Article 10 of the ECHR Convention" – attended by 17 judges and 6 prosecutors and also, 2 seminars with the theme "Direct application of European convention of human rights by domestic courts in cases brought before them" attended by 28 judges, 11 prosecutors and 2 police officers from National Authority of Penitentiary).

In partnership with Romanian Ministry of Justice, a total number of **4 seminars** were also organised on the *ECHR practice*. They were attended by 85 participants (66 judges, 13 prosecutors and 6 experts from SCM, MoJ.

2012

In 2012, given the success of the seminars included in the EJTN Catalogue for 2010 and 2011 and recognizing the importance of training magistrates on the ECHR practice, the NIM included **3 seminars** in EJTN 2012 Catalogue (1 seminar regarding the "Media freedom and the Magistrates. Enforcement of Article 10 of the ECHR Convention" – attended by 14 judges, 4 prosecutors, 1 magistrate assistant from HCCJ and 2 MoJ experts, along with 2 judges form Italy and 2 judges from Bulgaria; and also, 2 seminars with the theme "Direct application of European Convention of Human Rights by domestic courts in cases brought before them" – attended by 14 judges, 8 prosecutors, 2 experts from Prosecutors Office attached to the HCCJ and MoJ, along with 2 Italian judges, 1 Dutch judge and 2 prosecutors from Spain.

Moreover, on 20th of June 2012, NIM launched – on Dokeos platform - *the online Training Course on European Convention of Human Rights*. These on-line training modules are a useful instrument for dissemination of basic knowledge and abilities in the ECHR domain. We are aware that on-line modules do not cover all training needs for Romanian magistrates, but it can contribute significantly being an important tool for the in-service magistrates that are willing to acquire the basic knowledge in the human rights

topics. The NIM's on-line training tackled the basic knowledge in the ways of application of 6th Article from *European Convention on Human Rights* in civil matters. The eLearning course of 6 weeks duration is addressed to all Romanian judges and prosecutors, regardless the jurisdiction, that have no knowledge's in the field of application of 6th Article from *European Convention on Human Rights* in civil matters or some of them want to extend and up-date theirs information in this field.

2013

In 2013, NIM included **3 seminars** in EJTN 2012 Catalogue (1 seminar regarding the "Media freedom and the Magistrates. Enforcement of Article 10 of the ECHR Convention" – attended by 8 judges and 10 prosecutors; and also, 2 seminars with the theme "Direct application of European Convention of Human Rights by domestic courts in cases brought before them" – attended by 11 judges, 18 prosecutors and 1 judge from Poland.

Another **3 seminars** were organized with the support of the German Foundation IRZ). At the seminars attended 41 judges, 12 prosecutors and 2 MoJ experts.

In 2013, NIM launched two eLearning courses on "*Free access to justice*" and one eLearning course on "*Deprivation of liberty*". The 6 weeks duration courses are addressed to the Romanian judges and prosecutors, regardless the jurisdiction.

Comments of the Ministry of Justice

End-of-mission statement on Romania, by Professor Philip Alston, United Nations Human Rights Council Special Rapporteur on extreme poverty and human rights

-extras-

Eviction from informal housing does not appear to be covered by the Civil Procedure Code. Article 1042 of that Code is particularly worrying because it limits the grounds on which an eviction can be reviewed before a court. The Code also does not provide adequate time to challenge an eviction notice and there are no legal remedies that allow a claimant to request a court to suspend an eviction. ***(pg.7)***

g) The Civil Code should be amended to apply to evictions from informal settlements, to allow for a full review of eviction decisions by the courts, and for temporary or permanent stays of execution to be granted. ***(pg.8)***

As regards the above mentioned paragraphs, taking into consideration the fact that they contain conclusions that to not reflect a proper knowledge of the normative reality regulated by the Civil procedure code, we consider necessary reanalysing these norms, taking into consideration the following:

The New Civil Code regulates the patrimonial and non-patrimonial relations between persons, as subjects of civil law, while the New Civil Procedure Code is the common regulation in civil procedural matters.

The New Civil Procedure Law sets up a new special procedure: evacuation from the immovables used or occupied without right.

The special procedure of the evacuation may refer, on one hand, to the *ex-tenant*, who has used the immovable on the grounds of a title, or, on the other hand, a *third party occupying the immovable without right*. The common factor is, therefore, the using/ occupying without right of the immovable whose evacuation has been asked for. The

notions of tenant and occupier are defined by the very New Civil Procedure Code: for example, the occupier is defined as being any person, other than the owner or the tenant, occupying *in concreto* the immovable with or without the permission or the acceptance of the owner (art.1034 para (2) letter e) NCPC).

Therefore, the scope of the procedure takes into consideration various situations which may occur in practice: on one hand, situations in which the person who is about to be evacuated has legitimately occupied the immovable, on the grounds of a title, which was giving him/her a right to use the immovable (but a right which has ceased), and , on the other hand, hypothesis in which the person who is about to be evacuated occupies the immovable with no legal right.

One should notice that the special procedure on the evacuation is a jurisdictional one[1].

In order to offer the possibility to the persons to voluntarily evacuate the occupied immovable, the evacuation by a judicial procedure is preceded by a preliminary procedure, namely the notification of the ex-tenant/ occupier.

We should mention the following particularities of the evacuation special procedure:

- the evacuation file shall be tried, as a general rule, with the summoning of the parties; only in an exceptional situation, taking into the consideration the particularities of the file, the case may be tried without summoning the parties- namely in the situation in which the evacuation for non-payment of the rent or lease is requested on the basis of a contract, which represents, for such payment, writ of execution according to the law (Art. 1.042 para (1) NCPC);

- the evacuation decision may be challenged with appeal (Art. 1.042 para (5) NCPC), an ordinary mean of judicial review, of common law, which may be exercised for any discontent on the decision of the first court, be it de facto or de jure. In this way two trials on the merits of the case are ensured, therefore a double jurisdiction level;

- the enforcement of the evacuation decision may be challenged with a contestation to enforcement, according to the law (art. 1044 NCPC);

- the institution of the suspension of the enforcement of the evacuation decision is more restrictive, taking into consideration the particular juridical situation of the person who is about to be evacuated: the person who occupies the immovable with no legal right.

- Taking into consideration the different juridical situation of those who are about to be evacuated with the special procedure, the legislator has set up a different juridical regime, as for example:

the notification of the ex-tenant for the evacuation and free handling of the immovable shall be done in a longer term (see for example art. 1.038 para (1) NCPC), on the other hand the occupier has the obligation to evacuate the immovable in a term of 5 days since the communication of the evacuation notification;

- for humanitarian and social protection reasons, Art. 896 NCPC – but also Art. 578[1] in the old Civil Procedure Code[2] - have set up the interdiction of evacuation from the immovable used as dwelling between 1st December up to 1st

[1] For the tenants, the New Civil Code, sets up at art 1.831 para (1) a rule according to which their evacuation shall be done only through a court decision.

[2] Following its amendment through the Law no. 202/2010 on some measures for speeding up the trials.

March of the next year, an interdiction exclusively applicable in the situation in which the creditor brings proof that, in the sense of the dwelling legislation, he/she and his/her family have no proper residence to live in or that the debtor and his/her family have another proper dwelling to which they could immediately move. On the other hand, this protection measure shall not be applicable in the situation of the persons who abusively occupy de facto, with no title, a residence or the persons who have been evacuated because they endanger the cohabitation relations or seriously affect the public order.

- still according to the different juridical situation of the evacuated persons (no matter the chosen procedure – the common or the special one), the legislator has set up some protection measures of these persons.

As far as the evacuated tenants / tenants who are to be evacuated from the immovables nationalized by the Romanian State, and returned to the former owners through judicial / administrative procedure are concerned - see for example the Government Emergency Ordinance no. 40/1999 on the protection of the tenants and setting up the rent for the spaces meant as dwellings, the Government Emergency Ordinance no.68/2006 on measures for developing the activities in the field of building dwellings through programmes at national level and the Government Emergency Ordinance no.74/2007 on ensuring the funds of social dwellings for evacuated tenants or who are to be evacuated from the dwellings returned to the former owners

As far as the situation of the persons or families whose economic situation does not allow them to own a dwelling or to rent a dwelling under the market conditions is concerned, see for example: Law no 114/1996 on the dwellings or Law no. 152/1998 on the setting up of the National Housing Agency;

As for the persons envisaged by the report, see for example: Government Decision no. 1237/2008 on approving the pilot programme "Social dwellings for Roma population".

As a conclusion, the judicial evacuation of the above mentioned people ensures proper procedural guarantees for the compliance with the fundamental right to a fair trial. On the other hand, the finality of this procedure ensures, as an ultimate outcome, the very protection of the public or private property right, guaranteed by the Romanian Constitution. Finally, the social protection of the evacuated shall be ensured through a wide range of measures, as those above mentioned.

Comments of the Ministry of Internal Affairs:

Most of the conclusions presented in the report are based on the death of Mr. Gabriel-Daniel Dumitrache, which occurred in March 2014 and which resulted in the criminal prosecution of the police officer involved. At present, the indictment has been issued and the accused was sent to court, pending the establishment of his guilt by a final court ruling.

We would like to point out that an isolated case, where disciplinary sanctions have been applied to several police officers (including the police officer sent to court) and administrative measures have been taken, with a view to preventing similar negative situations from happening again, cannot be generalized as characterising the entire activity of the Romanian Police.

Referring to the stipulations of **paragraph 26, 2nd heading, letter A, chapter III**, namely that there is a "political pressure to 'cleanse' the city of informal workers [1], thus turning a social problem that requires the adoption of economic and social measures into police business", we deem it necessary to eliminate such claims from the text. Together with other structures of the Romanian Ministry of Internal Affairs, Police must ensure, among other duties, a climate of security for Romanian citizens. Accordingly, the General Inspectorate of the Romanian Police (GIRP) is responsible for taking the appropriate measures within the limit of its responsibilities, as established by law.

As regards the stipulations of **paragraph 27, 2nd heading, letter A, chapter III**, the situation is generated by the more often than not inappropriate venues of the headquarters of police stations, which very often lack a room for processing people who didn't commit a crime (for instance, people who committed minor offences or who need to be identified).

Referring to the registers of Station 10 (**paragraph 27, 2nd heading, letter A, chapter III**), both in terms of the access of people, and the register where people walking in the station need to sign in, periodic checks are being carried out by the General Police Directorate of the Bucharest Municipality (DGPMB) in order to monitor the way these registers are being used (more particularly the date and time people exit the building, etc.)

At **the end of paragraph 27**, the Rapporteur mentions the fact that the Police does not have access to the video surveillance system at its headquarters in 72 Unirii Boulevard. The affirmation is correct, yet with a number of observations: the judicial status of the building does not allow it: the DGPMB and the owner of the building signed a rental contract containing a clause that prevents the setup of small surveillance systems within and outside the building. Additionally, we would like to point out that 6 police stations at the level of DGPMB are equipped with systems monitoring the entrances, while 14 stations employ an arrest monitoring system.

Referring to **paragraph 29**, we would like to mention that at the level of the Ministry of Internal Affairs there is no data on complaints submitted to the prosecutor, but we recall the existent data at MIA regarding the complaints received by the Romanian Police in 2015.

In September 2015, DGPMB concluded a partnership with the Centre for Judicial Studies and Human Rights, aimed at training police officers with respect to the legal endorsement of human rights. The partnership is part of a broader cooperation agreement, which is aimed at strengthening the capacity of police institutions to contribute to the development of the trust relation between the institution they represent and members of vulnerable communities. The training curriculum is based on approaching theoretical concepts on non-discrimination, as well as practices of building a relation of trust between police workers and vulnerable categories. The briefing sessions were also aimed at promoting a debate on the need to establish a relationship of trust between the police and members of local Roma communities. Additionally, talks referred to aspects regarding the case-law of the European Court of Human Rights, with focus on the judgments stating that there had been a violation of the Convention by the Romanian State in cases involving police officers. The partnership will be continued over the following period, with the possibility of extending it.

[1] Persons who assist people park their cars.

Comments of the National Agency for Roma

As regards the "**Conclusions and recommendations**" section of the Report (A - Roma), the position of NAR is as follows:

Reports conclusion recommendation	*NAR position*
a) Romania's highest public officials should publicly acknowledge that there continues to be severe discrimination against Roma in Romania.	A useful recommendation, taking into account the high ranking officials are benefiting from a good media exposure in promoting pro-tolerance and pro-diversity messages, in favour of various vulnerable groups, in particular Roma. The Prime Minister and other senior officials, including the existing Roma dignitaries, have constantly sent such messages to the general public, usually when presenting some best practices projects for Roma inclusion or taking the awareness raising opportunities to celebrating Roma-related events (International Roma Day, the abolishment of the slavery day, Holocaust remembrance day, International Human Rights Day, Diversity festivals etc.)
b) Because of the depth and scope of past discrimination, special measures to assist the Roma population are needed in areas such as education, health care, employment and housing.	In the field of EDUCATION: the Romanian Government was pro-active since mid-90s in this field, being the first European country to introduce of the affirmative actions in education (special seats for Roma children in high-schools and universities), as a recognition of the socio-economic discrepancy between the Roma minority and the general population and the political will to tackle this issue. Remedial programmes for adults were introduced in the educational system, targeting illiterate adults and teenagers who left the educational system and willing to get reintegrated in school; as well, master and doctoral programmes were developed within the universities in Romania for Roma and non-Roma students and on Roma-related topics, in socio-humanities studies. In the field of HEALTH: Romania has introduced for more than a decade the model of Roma health mediator, an occupation for specially trained members of the Roma communities, to act as liaison between the community and the medical system, with the aim of increasing the access of the members of the Roma communities to the health care services; usually Roma women, the Roma health mediators are well respected members of the community that are liaising between the mainstream medical staff and the Romani-speaking communities. As well, their contribution is truly valuable in monitoring and assessing the health situation of the Roma population in Romania. This model of intervention is already transferred to other European countries for years, with the aim of improving the access of the Roma to the health care services. As regards the EMPLOYMENT: the Romanian government has made constant efforts in providing opportunities for Roma, be it from funding the vocational training programmes, organizing job fairs, funding social entrepreneurship projects to encourage the revival of the Roma crafts, as well as providing the beneficiaries with the needed skills and knowledge to be competitive on the job market. During the global financial crisis, the Roma were affected, indeed, but the recent small economic growth registered

	by Romania in the last years, coupled with the perspectives of putting at work the existing European-funded resources, as well as those funded from the national budget. In the field of HOUSING, the Romanian Government, through its National Agency for the Roma has funded, between 2014-2015, under annual calls for proposals - "The Year of Citizen's participation and responsibility" -, a number of 30 projects all across the country, amounting of 1 MEUR (around 0.5 MEUR per year) from the national budget, to support the legalization and issuing of the ID and property-related documents for the inhabitants in informal Roma communities. These complex and technical projects resulted in more than 4,500 direct beneficiaries of the NAR funding. Also, starting with 2016, the projects were scaled up and taken over by the National Programme for Cadaster and land registry (of approx. 300 MEUR), implemented by the National Agency for Cadaster and Land Registry. In 2015, NAR has carried out an exhaustive screening of all counties, with the help of Prefectures's offices, to identify the households owned by the Roma families, in informal communities, in view of being included in and solved through the National Programme for Cadaster; this screening showed a total number of 137.000 households in informal Roma communities to be solved between 2016-2020, which require a commeasured budgetary effort.
c) The next census should be designed so as to provide an accurate picture of the Roma population. While the principle of self-identification should be respected by the State, several methods can ensure that interviewees feel free to identify as Roma. An ID card should not be indispensable and specially trained census-takers of Roma origin should be used in areas with a significant proportion of Roma. UNICEF and others have shown that social censuses can be undertaken in ways that allow Roma to state their ethnicity.	The Populations' Census forms are offering to all citizens the possibility to assume their own ethnic and/or religious affiliation, through an exhaustive list, as well as an open option for various un-listed groups.
d) In the absence of disaggregated data on ethnicity, it is impossible to devise effective special measures to assist specific minority groups, including the Roma, in employment, housing, education, and health care. Law 677/2001 is compatible with the collection of such ethnicity data for statistical purposes, provided that relevant safeguards are in place. The National Council for Combating Discrimination should publicly acknowledge the importance of such an approach and publish a legal opinion on the interpretation of Law 677/2001. Although that law implements EU Data Protection Directive 95/46, the current	n/a

official interpretation of the law appears to contradict article 8 (2) of the Directive and the European Commission should start an infringement procedure against Romania if it continues to misinterpret the EU Directive.	
e) Romanian law should provide adequate procedural safeguards against forced evictions, in conformity with international standards, including General Comment no. 7 (1997) of the UN Committee on Economic, Social and Cultural Rights.	n/a
f) Eviction should be the last resort. The Government should instruct local authorities to prioritize the regularization of informal settlements over eviction.	Even though the governmental bodies have no direct competences in enforcing anti-eviction measures against Roma settlements, the National Agency for the Roma, through its representatives, were constantly involved in creating awareness as regards the need that local authorities provide adequate housing solutions for the evicted citizens and respect the existing anti-discrimination and anti-marginalisation legislation.
g) The Civil Code should be amended to apply to evictions from informal settlements, to allow for judicial review of such evictions and the granting of temporary or permanent stays of execution.	n/a
h) Prefects are required to review the legality of all administrative acts by municipalities, including eviction orders. In reviewing the legality of eviction orders, they should take account of international human rights standards. The Ministry of the Interior should issue guidelines to this effect.	n/a
i) Legislation on public housing, including the Housing Law (Law 114/1996) and Law 116/2002 on preventing and combating social marginalization, should be amended to include Roma as a category of priority beneficiaries in the allocation of social housing. The central Government should issue guidelines for local governments on the criteria for access to public housing to ensure the reasonable eligibility of Roma for such housing.	Housing lies at the heart of social inclusion; the NRIS is approaching this policy through specific measures, such as developing regeneration integrated urban projects, the allocation from the national budget of funds aimed at implementing a pilot-programme "Social houses for Roma communities", as well as including the Roma housing unsolved issues into the National Programme for Cadaster and Land Registry.

Comments of the Ministry of Labor, Family, Social Protection and the Elderly:

Note by the Secretariat

In terms of political will, its existence is proved not only by the fact that in every public speech delivered with every occasion, Ministry's and Government's officials underline their commitment to address the issue of poverty and social exclusion by stimulating economic growth and creating more jobs as top priority on their agendas and investing more in developing and modernizing the social assistance system and its resources, but also by the recently adopted National Strategy on Social inclusion and Poverty Reduction for the period 2015-2020 and its corresponding Strategic Action Plan with clear key initiatives. (*For further reference see Government's Decision no.383/2015).*

In addition to that, the Ministry of Labour, Family, Social Protection and Elderly (MoLFSPE) has established in 2014/2015, together with the Ministry of Regional Development and Public Administration a working group on issues related to force evictions and social housing and MoLFSPE also had many reunions (at Secretary of State level and also at experts level) with representatives of Amnesty International on the topics mentioned above.

Concerning the social security system, *cash benefits* are in fact officially named "*social assistance benefits*" (see Social Assistance Law no.292/2011 with subsequent amendments). According to the provisions of Social Assistance Law no.292/2011 with subsequent amendments, values and general principles, among which we underline: Individual approach (social assistance measures should be adapted to the particular life situation of each individual), Beneficiaries' participation (in drawing and implementing policies which impact their lives, in drafting personalized social support programs, actively involving as well in community's life). Moreover the social assistance measures and actions are implemented so that to ensure the following:

a) social assistance benefits and social services form a unitary package of correlated and complementary measures;

b) social services prevail against social assistance benefits, in all situations where their costs and impact on beneficiaries are similar;

c) to be periodically evaluated based on efficiency criteria in order to give the possibility to adapt and adjust them to the real needs of the beneficiaries;

d) to contribute to the beneficiaries' labour market integration;

e) to prevent and limit any form of dependency on state or community aid.

Regarding the social protection seen as a charitable undertaking, we underline that according to the provisions of Social Assistance Law no.292/2011 with subsequent amendments, social assistance has as main objective to develop individual, group or collective capacity to ensure social needs, increasing the quality of life and promoting cohesion and social inclusion principles. Moreover, the State, through its social services' public policies contributes to promoting, respecting and granting beneficiaries' rights to an independent, fulfilled and dignified life, as well as to stimulating / enhancing their participation to social, economic, political, cultural life.

In addition to the principles mentioned in the above comment, the national social assistance system is also based on the following values and principles:

- social solidarity (the entire community involves in supporting vulnerable people for overcoming or limiting difficult situations, in order to ensure their social inclusion;

- universality (each person has the right to social assistance, as regulated by law);

- respecting human dignity (each person is granted free and full personality development, each person has its individual and social status respected and has the right to intimacy and protection)

As regards the MoLFSPE's administrative capacity, it worth mentioning that there are employed civil servants, a with a university and a master degree (mostly in law, social sciences and other fields), meaning that there is the necessary technical expertise in the area. Moreover, all the documents produced by the World Bank for the MoLFSPE (at MoLFSPE's request, based on a contract (RAS) according to which WB is contracted and paid by MoLFSPE to deliver the specified outputs) mention in the acknowledgements' section expressions of gratitude to their counterparts from MoLFSPE, for their support in developing each of the deliverables mentioned in the contract.

In terms of institutional reforms, starting with 2011 the Romanian Government has been implementing an extensive reform in Social Assistance (In order to support the implementation of the Social Assistance Reform Strategy, a project to modernise this system is being implemented by MoLFSPE supported by the IBRD / World Bank) through a Euro 500 million loan, called "*Social assistance system modernization project*" (P121673). The development objective of the project is the improvement the overall performance of the social assistance system in Romania.

The specific objectives of this Strategy are the following:

a) Improve equity

b) Improve the activation of beneficiaries who receive social services and social benefits

c) Use funds more efficiently inside the social assistance system

d) Improve the functional efficiency of the social assistance system

e) Increase the analysis, forecast, strategic planning, monitoring and evaluation capacity.

f) Improve the quality of the HR working inside this system (quantitatively and qualitatively)

The main measures specified in the strategy include:

- Focus on programs devoted to low income families/families in the first quintile;

- harmonize the eligibility criteria for the programs devoted to low income families;

- consolidate these programs into one single program, whose indicative title should be "Minimum Insertion Income (MII)", for the year 2014;

- raising the co-accountability of those who get MII, by conditioning the payments on school participation of children and on the active search for a job - in the case of parents;

- consolidating payments to disabled persons into one single social security benefit and the introduction of income testing for all beneficiaries who are part of wealthy families;

- perform checks (inspections) in all social assistance programs that are exposed to a high risk of error or fraud;

- increase the effectiveness of the social inspection activities, by introducing client profiling, a system whereby irregularities can be reported, and an efficient sanctions policy;

- develop an integrated management information system, that should be used for paying social assistance benefits, for detecting suspect fraud or error cases by cross-checking the information in the public databases, as well as for supporting a result-based management model;

- interconnecting the databases that refer to the social rights beneficiaries with other relevant data sources (databases of the National Public Pensions House, the National Employment Agency, the Births and Deaths Register etc);

- increase the analysis, forecast, strategic planning, monitoring and evaluation capacity of MoLFSPE.

The main beneficiaries are low-income households, specific vulnerable groups, and taxpayers in general. The project is results-based, meaning that it is organized around objectives that cover result areas with a number of 20 Disbursement Linked Indicators (DLIs) which have been agreed upon, linked to the disbursement of 25 mil.euro in value up to now.

MoLFSPE, through the relevant subordinated departments and institutions, leads the development of the reforms.

Parahraph 6

According to the legislation in place in Romania, before submitting any legal act for approval by the Government or the Parliament, the public institutions have the obligation to submit the draft project for public consultation, post it on its website and analyze the comments, observations, proposals received from any interested person or organization.

Paragraph 7

The persons at risk of income poverty (25.4% of population) are included in the 40.2% of population that are at-risk-of-poverty and social exclusion.

A definition of AROPE indicator could be found for example here: United Nations Economic Commission for Europe

https://www.unece.org/fileadmin/DAM/stats/documents/ece/ces/ge.15/2013/WP_25_Eurostat_D_En.pdf

"The broader "at-risk-of-poverty or social exclusion" indicator is relevant in capturing several dimensions. More precisely it includes people that are at least in one of the 3 categories:

- People at risk-of-poverty, who have an equalized disposable income below the risk-of-poverty threshold, set at 60 % of the national median equalized disposable income (after social transfers).

- People who suffer from severe material deprivation and have living conditions severely constrained by a lack of resources. They experience at least 4

out of the 9 following deprivations items. They cannot afford: i. to pay rent or utility bills, ii. keep home adequately warm, iii. face unexpected expenses, iv. eat meat, fish or a protein equivalent every second day, v. a week holiday away from home, vi. a car, vii. a washing machine, viii. a colour TV, or ix. a telephone.

- People living in households with very low work intensity, who are those aged 0-59 living in households where adults worked less than 20% of their total work potential during the past year."

Paragraph 8

In 2012, North-East rate was ten times higher than Bucharest-Ilfov rate.

In 2014, North-East rate was six times higher than Bucharest-Ilfov rate.

Source: Eurostat

Paragraph 39

Romania plans to modify translation on article no. 12 from the *Convention on the rights of persons with disabilities*. In this regard, in the near future National Authority for Persons with Disabilities (NAPD) will initiate the process of amending the document.

Regarding the use of the notion of "person with disabilities " or " person with handicap" having, primarily as reference art. 1 of *the Convention on the Rights of Persons with Disabilities*, NAPD will clarify the elements that will be used to determine the status of disability in the interaction between persons with impairments and barriers created by attitudinal, physical and communicational environment. So the intervention will meet the need genuinely and will be focused on respect for fundamental human rights. Incidentally the National Strategy "A society without barriers for persons with disabilities" 2016-2020 (which currently is in the final phase of approval external) promotes with all responsibility the concept.

Regarding the information that HIV-AIDS is considered as being a "rare disease" we want to draw attention that the HIV – AIDS, according with the stipulations provided in Law 448/2006, as amended and supplemented, it is considered a type of disability and not a rare disease.

Paragraph 45

The age of employment, on average, for persons with disabilities is between 18-60, not 65, as stated in the report; the reasons that led to this reporting/direct age is given in accordance with legal provisions (legislative reference - pension law 263/2010 updated 2015, on the unitary public pension) persons with disabilities can retire earlier and the ratio between women and men (who certified framing degree of disability) is different (53.10 % - female). Thus, according to our statistics the employment rate of disabled people would be 16.25 % on 31.12.2015. But even if we consider the age range included in the report -18-65 - the employment rate of disabled people is 11.46 % and not 8%.

In addition, regarding the employment rate of people with disabilities in public institutions, NAPD is the promoter of this provision (with an employment rate of 8.77% of total employment). Given the interest in this issue, NAPD initiated a process of collection of such data to the public authorities. We trust that by the end we will have enlarged results.

As assumed in the operational plan of the national strategy "A society without barriers for people with disabilities" 2016-2020, NAPD will develop a national plan for employment and independent living.

Regarding the information referring to the income of persons with disabilities we consider opportune to specify that the social benefit paid is more likely to facilitate equal

opportunities, provision of independent living and foster social inclusion. Completing these benefits, the persons with disabilities can benefit also from minimum wage, salary, pension, if applicable.

Paragraph 46

The structure of the national strategy which will be enacted in the very near future (2016-2020) NAPD is to develop *a national plan for deinstitutionalization*, having, in this discussion collection of data with both representatives of general directorates of social assistance and child protection and with representatives of the Ministry of European Funds, through its European funding to support institutionalization of persons with disabilities. Also in support of this initiative and NAPD initiated the development of Programs of National Interest (PNI) which also support the development of services to ensure empowerment, rehabilitation and community integration, preventing institutionalization and support deinstitutionalization by the establishment and/or diversification of social services provided (to meet the specific needs of people with disabilities).

Paragraph 48

The MSII is stipulated in the SASMP (Social Assistance System Modernization Project), approved by the Government in 2011 and also in the National Strategy on Social Inclusion and Poverty Reduction for the period 2015-2020, adopted by GD no. 383/2015.

Paragraph 49

The MSII will be granted to those entitled to it, based on clear eligibility criteria, the new system aiming at targeting those most in need and at reducing the beneficiaries' and administrative costs. The school attendance condition aims at reducing the risk of poverty and social exclusion for future generations. Children not attending classes for reasons of sickness proved by certificate released by a medical doctor are exempted from this obligation for the sickness period . Such a situation does not affect the right of the family to receive benefits.

Paragraph 52

Social services financing accounts for more than 0.6% of GDP, because there are more mechanisms of social services financing, according to the legislation in place, and the 0.6% mentioned in the report does not include the amounts granted through all these financing mechanisms, such as:

1. DIRECT FINANCING, through local budgets and/or state budget for social services organized at local level, as a result of the obligation to ensure local or county public interest social services. Social Assistance Law no.292/2011 with subsequent amendments regulates at art.134 alin.(4), an order of priorities (for 4 categories of people) in allocating the amounts from some revenues from State budget for social services financing, the amounts being regulated by type of social service, by special laws,.

2. SOCIAL SERVICES' CONTRACTING (the procedure of social services' lease / purchase, based on contracting by public local authorities, based on the principles of efficiency, competition and transparency (art.141 alin.(3) of Law 292/2011).

3. SUBSIDISING SOCIAL SERVICES SET UP BY NGO'S AND RELIGIOUS CULTS RECOGNISED BY LAW (According to Law no.34/1998 on granting subsidies to Romanian associations and foundations which set up and social assistance units/services, MoLFSPE grants every year such subsidies, as form of support, from state budget.

The development of social services in rural areas is a priority for the Romanian Government and thus the necessary funding will be also provided through the Leader Axis 19.1 and 19.2 from the Rural Development National Program 2014-2020 (for social infrastructure investments) and through the 5.2 Axis of Human Capital OP 2014-2020 (for

so called *soft* measures such as investments in human resources (wages, professional training etc).

Paragraph 57

The National Strategy on Social Inclusion and Poverty Reduction 2015-2020 above-mentioned was an ex-ante conditionality established by the EU Commission as a pre-condition for accessing EU funds in 2014-2020. Taking into account this important fact, MoLFSPE had the initiative of contracting the World Bank for drafting such a strategic document, because of the limited period of time available to submit it to the EU COM, and of course it has paid for the services provided by the WB (see the Advisory Services Agreement On Provision of Inputs for the Preparation of a Draft National Strategy). Moreover, as clearly stated in the contract, the strategy and action plan were developed in close cooperation with the experts of MoLFSPE ("In carrying out the Advisory Services, the Bank will work closely with the designated officials of the Recipient"). The large number of emails exchanged between the experts of the WB and the ones of the Social Services Directorate within MoLFSPE and also the large number of working meetings are a strong proof of the close cooperation and joint expertise involved in the entire process.

Indeed, the WB had done an excellent work and MoLFSPE had an excellent cooperation with WB in this matter, but the so-called dominant role in such Advisory Services Agreements on Provision of Inputs for the Preparation of a Draft National Strategy, can only pertain to the Recipient (who appoints the Bank to carry out Advisory Services in the manner set forth in the agreement) who is a central public authority/Ministry responsible for elaborating the national public policies in the fields of labour, social protection, family, elderly, having the roles of state authority, strategy and planning, regulation, coordination, monitoring, inspection and control in the above mentioned areas (see Government's decision no.344/2014 with subsequent amendments).

Moreover, according to the Advisory Services Agreement "once the strategic priorities for the draft Strategy have been selected by the Recipient, the Bank, in closer cooperation with the Recipient, will assist the Recipient to further develop these policy options, resulting in a draft Action Plan".

Moreover, regarding the capacity to implement anti-poverty strategies mentioned in the Report, we would like to underline the fact that according to the GD no.344/2014 which regulates the organization and functioning of the MoLFSPE and also the MoLFSPE's Organisation and Functioning Regulation approved by Ministerial Order, the Ministry has the responsibility for elaborating, submitting for approval, coordinating and monitoring the implementation of national strategies and public policies in its areas of competence and also for evaluating their results. Thus, MoLFSPE has ensured that it has the necessary expertise and competence provided by its civil servants experts in these areas to fulfill its legal obligations in this matter.

V. Conclusions and recommendations

F. Institutional reforms

Letter (d)

The National Strategy on Social Inclusion and Poverty Reduction for the period 2015-2020 clearly states the following commitments:

The objective of the Government of Romania is that all citizens to be provided with an equal opportunity to participate in society, to feel valued and appreciated, to live in dignity and that their basic needs to be met and their differences respected.

In this context, the main results envisaged by the Strategy are the social inclusion of vulnerable groups and lifting 580,000 people out of poverty or social exclusion by 2020 compared to 2008, as committed by Romania in order to reach the goals of the Europe 2020 Strategy.

Romania aims to become a country where:

- All citizens have equal opportunities. Everyone deserves the opportunity to participate fully in the economic, social, political, and cultural life of their society and to enjoy the benefits of doing so. Equal opportunities mean that individual circumstances beyond their control do not determine people's quality of life.
- The basic needs of every citizen are met. Along with respect for and protection of fundamental human rights, one of the main preconditions for a decent quality of life is meeting citizens' basic needs for housing, food, sanitation, and security as well as for basic community services such as education, healthcare, and social services. These key elements enable people to live in dignity, to have control over their lives, and to actively participate in the life of their communities.
- All people feel valued and can live in dignity. All human beings are born free and equal in dignity and rights (Article 1 of the UN Declaration of Human Rights). When a person feels valued and lives in dignity, they are more likely to be in control of their lives and to participate in and become an active member of society.

Comments of the National Authority for Persons with Disabilities:

Paragraph 39: Romania plans to modify translation on article no. 12 from the *Convention on the rights of persons with disabilities*. In this regard, in the near future National Authority for Persons with Disabilities (NAPD) will initiate the process of amending the document.

Regarding the use of the notion of "person with disabilities " or " person with handicap " having , primarily as reference art. 1 of *the Convention on the Rights of Persons with Disabilities*, NAPD will clarify the elements that will be used to determine the status of disability in the interaction between persons with impairments and barriers created by attitudinal, physical and communicational environment. So the intervention will meet the need genuinely and will be focused on respect for fundamental human rights. Incidentally National strategy "A society without barriers for persons with disabilities" 2016-2020 (who currently is in the final phase of approval external) promotes with all responsibility the concept.

Regarding the information that HIV-AIDS is considered as being a "rare disease" we want to draw attention that the HIV – AIDS, according with the stipulations provided in Law 448/2006, as amended and supplemented, it is considered a type of disability and not a rare disease.

Paragraph 45 - the [illegible] of employment, on average, persons with disabilities is between 18-60, not 65, as stated in the report; the reasons that led to this reporting/direct age is given in accordance with legal provisions (legislative reference - pension law no. 263/2010 updated in 2015, on the unitary public pension) persons with disabilities can retire earlier and the ratio between women and men (who certified framing degree of disability) is different (53.10 % - female). Thus, according to our statistics, the employment rate of disabled people would be 16.25 % on 31.12.2015. But even if we consider the age range included in the report -18-65 - the employment rate of disabled people is 11.46 % and not 8%.

In addition, regarding the employment rate of people with disabilities in public institutions, NAPD is the promoter of this provision (with an employment rate of 8.77 % of total employment). Given the interest in this issue, NAPD initiated a process of collection of such data to the public authorities. We trust that by the end we will have enlarged results.

As assumed in the operational plan of the national strategy "A society without barriers for people with disabilities" 2016-2020, NAPD will develop a national plan for employment and independent living.

Regarding the information referring to income for persons with disabilities we consider opportune to specify that the social benefit paid is more likely to facilitate equal opportunities, provision of independent living and foster social inclusion. Completing these benefits, the persons with disabilities can benefit also from minimum wage, salary, pension, if applicable.

Paragraph 46 - the structure of the national strategy who will be enacted in the very near future (period 2016-2020) NAPD is to develop a national plan for deinstitutionalization, having, in this discussion collection of data with both representatives of general directorates of social assistance and child protection and with representatives of the Ministry of European Funds, through its European funding to support institutionalization of persons with disabilities. Also in support of this initiative and ANPD initiated the development of Programs of National Interest (PNI) which also supports the development of support services to ensure empowerment and rehabilitation and community integration, preventing institutionalization and support deinstitutionalization by the establishment and/or diversification of social services provided (to meet the specific needs of people with disabilities).

Comments of the Ministry of Regional Development and Public Administration:

Public Administration / Roma issues:

1. Overall, the analysis of the issues pertaining to the extreme poverty of the population is well documented, covering a large array of issues and topics, the deficient or inappropriate legal framework in certain cases, the lack of funds for social institutions, the absence of strategies promoting the full integration of people with disabilities, etc.

2. For each separate field, the UN Rapporteur issued recommendations on the legal, financial, fiscal, bureaucratic and organizational leverage that should be used to improve the overall situation, which is very dissatisfactory at present, Romania being one of the bottom countries at EU level in these fields.

3. The report the UN Rapporteur deals with the issue of extreme poverty and human rights, focusing primarily on the Roma community, without mentioning the existence of pockets of poverty in certain counties in the historical province of Moldavia or in the south of the country, population has a living standard very similar to that of the Roma population.

4. Therefore, the recommendations regarding the legal framework, institutions, financing, human resources, fiscal and social policies with a view to correcting the present situation, are for their most part referring to this minority. The final chapter, "Institutional reforms", advocates the idea of appointing a minister for the Roma community, given that a specialised structure, the National Agency for the Roma, is already operational.

5. The analysis on the situation of the Roma population is rich in information concerning the abuses reported institutions in the central and local public administration targeting the Roma population, without mentioning some of the measures promoted for their integration, or the fact that they are being ignored by a part of the Roma population, for various reasons.

Referring to the implementation of the Government Inclusion Strategy for Romanian citizens belonging to the Roma minority for the period 2015-2020, we would like to mention the following: the Government Decision 18/2015 adopts this Strategy with a view to continuing measures on the social inclusion of Romanian citizens of Roma ethnicity.

The strategy comes with action plans for each field of major interest (education, employment, health care, housing), and provides financing sources as well as a system for monitoring and reporting.

The fields of interest laid out in the action plans and sectorial measures of the Strategy for which the Ministry of Regional Development and Public Administration assumes full responsibility are: *housing and small infrastructure*.

Referring to the provisions in the Report, according to which the Strategy is stagnating, and that no funds have been earmarked for implementing the measures on the social inclusion of Romanian citizens belonging to the Roma minority, we would like to mention that the Ministry of Regional Development and Public Administration (MDRAP) has undertaken and assumed relevant measures with clear-cut budgets, both from the state budget, as well as from external funds.

For 201, as per the provisions of the State Budget Law 186/2014, with subsequent modifications and amendments, *31.500 thousand RON* were earmarked to implement the Pilot program "Social Housing for the Roma Community".

The pilot program runs based on the Government Decision 1237/2008, as well as the Framework Agreement between the National Agency for the Roma and the Ministry of Development, Public Works and Housing (at present MDRAP) and represents an experimental component of the social inclusion program in Romania. The pilot program is aimed at implementing some projects for the construction of 280 social housing units in 8 development regions, namely in 11 towns and villages from 9 counties.

In what regards the lack of ownership titles, MDRAP, by means of the Land Title and Survey Office (ANCPI), as per the Government Decision 294/29.04.2015, is implementing the National Land Title and Register Program for the period 2015/2023, its main activity being the performance of systematic registration works in 2,337 territorial and administrative units in Romania's rural and urban areas.

As part of the process of systematically registering all properties in the digital integrated land title and register system, special attention will be given to the participation of vulnerable groups in the process, particularly the Roma population, due to the lack of identification documents, property titles and marriage certificates (as a result of unwritten marriages). The financing for the activity of the National Program will be provided from the separate accounts of the ANCPI. The budget ANCPI has allocated to the activity of systematically registering properties in 2015 stood at 150.982.000 RON.

6. Referring to the *Social Housing Building Program*, under the Law 114/1996, we would like to mention that the purpose of this program is the building of social housing units, homes with subsidised rent, addressing a category of underprivileged people defined by the law, whose income does not afford them to own a home or rent a home at market value. The objective is to ensuring decent living standards for underprivileged social categories.

Promoting investments in social housing is the task of the local public authorities. The funds earmarked in 2016 to the Social Housing Building program, under the State Budget Law 338.2015, stand a 25,000.000 RON.

As regards access to social housing, we would like to mention the fact that the legislation in force contains no discriminatory provisions, ethnicity-related restrictions or barriers.

7. Referring to financing by means of European funds, the 2014-2020 financial framework has a more pragmatic approach of efforts to combat poverty and social inclusion. Therefore, the Sectoral Operational Program 2014-2020, managed by the MDRAP as a Management Authority, by implementing the Local Development Mechanism under Community Responsibility (DLRC), as part of priority pillar 9 "*Supporting economic and social regeneration of underprivileged communities in the urban area*" will finance investments in housing infrastructure, social economy, education and the restoration of the degraded urban territory of underprivileged communities. The types of actions to eligible for funding include the building / rehabilitation / modernization of social housing units. The budget earmarked to priority Pillar 9 stands at 101,41 million euros.

European programs:

1. The statement "Recent policies have favoured hospital funding at the expense of urgently needed improvements in primary, community and preventive care arrangements" (page 5) is inaccurate. As no mention is made as to which recent policies the reference is made, we would like to mention that the goal of the National Health Care Strategy 2014-2020 is the reversal of the pyramid of medical services, with a view to increasing the focus on primary medical care and decreasing the focus on hospital admission. Underlying this effort are interventions in the infrastructure of primary medical services funded in the 2014-2020 period from European Structural and Investment funds (ESIF) by means of operational programmes (i.e. one of the markers indices linked with the Sectorial Operational Program 2014-2020 is "the decrease in the share of patients with severe affections admitted for hospital care", correlated with the marker "the decreasing need uncovered by medical services (for the lowest quintile)".

2. The statement "It is widely acknowledged, including in the Government's Roma Inclusion Strategy, that improvement of the housing situation of the Roma should be a priority and is integral to fighting poverty and social exclusion among this group" (page 7) is arguable, in the sense that, according to the latest findings in the field of poverty and social exclusion (see "Integrated Intervention Tool – Intervention Strategies for Urban Poor Areas and Disadvantages Communities", as part of the project "Elaboration of integration strategies for poor areas and disadvantaged communities", conducted by the World Bank in cooperation with MDRAP in the 2012-2014 period), as well as the most recent tendencies at the level of the European Commission, eradicating poverty must be achieved by means of integrated measures.

3. Without denying the importance of creating housing, we need however to mention the fact that providing housing without supporting measures that should step up the employment chances of poor people, will only lead to the impossibility of supporting maintenance-related spending, which will eventually lead to the gradual degradation of the home. Eradicating poverty is one of the Government's concerns, transparent including in integrated actions (for instance in the social housing infrastructure, in additional to investment in vocational training programs for vulnerable categories, with a view to increasing the employment eligibility), which will be financed in the 2014-2020 period with European Structural and Investment Funds (ESIF), via operational programs, such as the Regional Operational Program 2014-2020 and the Human Capital Operational Program.

Regional development and infrastructure:

1. Referring to the statement at page 5, according to which "*there is no national plan for solving the issue of the chronic shortage of social homes (...)*", we would like to mention that in accordance to the strategic objectives of the Romanian Government, the Ministry of Regional Development and Public Administration is implementing the following programmes, as per the legislation in force, with a view to solving the housing shortage:

- The Social Housing Building Program, as per the Housing Law 114/1996, with subsequent amendments and additions;
- The Rental Housing Program for Young People, conducted by the National Housing Agency (ANL), with subsequent amendments and additions;
- The Social Housing Building Program addressing tenants whose homes were confiscated by the state, based on the Emergency Government Ordinance 68/2006, on measures for the development of activity in the field of building houses through nationwide projects, with subsequent amendments and additions, and based on the Emergency Government Ordinance 74/2007, on ensuring social housing for tenants evicted or who will be evicted from homes returned to their former owners;
- The Program on ensuring state bonuses for collective saving and loaning, conducted based on the Emergency Government Ordinance 99/2006, on lending institutions and capital adjustment, with subsequent amendments and additions;
- The Program for building homes with mortgage loans, as per the Law 152/1998 on the setup of the National Housing Agency, with subsequent amendments and additions, and based on Law 190/1999 on mortgage loans for real estate investments, with subsequent amendments and additions.

2. *Point 1 – Housing* (page 7): referring to the stipulations in the report on *forced evictions*, we would like to mention that, as per Art. 10 in the Law on Local Public Administration 215/2001, with subsequent amendments and additions, local authorities in the public administration are managing or, if the case requires it, dispose of financial resources, as well as the public or private property assets of villages, cities, municipalities and counties, as per the principle of local autonomy.

Moreover, the Civil Code, at art. 555, defines private property as the right of the titleholder to own, use and dispose of an asset exclusively, absolutely and continuously, within the boundaries of the law. Article 554, paragraph (1) of the Civil Code provides that the assets of the state and territorial and administrative units, which given their nature or their legal status, are of public use or interest and are seen as public property, but only if they have been legally obtained. We also add that disturbance of possession and breaking and entering are eligible for sanctioning as per the Criminal Code.

Concerning the activity of the MDRAP, as per the provisions of the Emergency Government Ordinance 74/2007 on securing social housing for tenants evicted or who are to be evicted from homes returned to their former owners, with subsequent amendments and additions, as we have mentioned before, our Ministry is implementing the Social Housing Building Program addressing tenants evicted from houses confiscated by the state. Therefore, according to Art 1, paragraph (1) from the Emergency Government Ordinance 74/2007, as part of the strategy to develop housing units, local councils and the General Council of the Bucharest Municipality are ensuring the amount of housing units required to cover local demand, with priority given to applications filed by tenants who are evicted or who are to be evicted from homes returned to their former owners.

Moreover, based on the provisions of the Housing Law 114/1996, with subsequent amendments and additions, MDRAP is implementing the Social Housing Building Program. In this respect, according to Article 2, letter c) in the Law 114/1996, social housing is defined as a type of home given in subsidized rent to a person or a family whose economic status does not allow them to own or rent a property at market value.

As per Article 28 in Law 114/1996, social housing building projects can be carried out anywhere, in locations certified by zoning acts and under the provisions of the current law. The expansion of the housing pool can be achieved by adding new construction projects and rehabilitating current units. Local councils control and take responsibility for the social housing units in their territorial and administrative sections. According to Article 39 of the aforementioned law, social homes are part of the public domain of the territorial and administrative units.

Based on Article 42 in the Law 114/1996, access to social housing is given to families or people with an average monthly net income in the last 12 months below the national average monthly net income, made public by the National Institute for Statistics in their latest information bulletin published prior to the analysis of the request and before the allocation of the home. Article 43 in the Law 114/1996 stipulates that social housing are allocated by local authorities in the public administration who manage the houses based on annually defined criteria, as per the provisions of the current chapter. The following categories of people can benefit from these houses, with priority given under the law: people and families evicted or who are to be evicted from homes returned to their former owners, young people of up to 35 years of age, young people from social care homes and who are at least 18 years of age, people with level I and II disabilities, people with various disabilities, pensioners, war veterans and widows, beneficiaries of the provisions of the Law 341/2004 on recognition for the martyr heroes and fighters who contributed to the victory of the Romanian revolution of December 1989, as well as for the people who gave their lives or suffered in the workers' anti-communist uprising in Braşov of November 1987, with subsequent amendments and additions, and of the provisions of the Law-Decree 118/1990 on the rights of the people prosecuted for political reasons by the dictatorship instated on March 6, 1945, as well as those deported abroad or made prisoners, republished, with subsequent amendments and additions, and other people and families with a legitimate claim.

Referring to the funding of social houses, according to Article 50 of Law 114/1996, it funding is provided from local budgets, within the limits of the annual budget of local councils, with a view to creating a separate line of spending for these budgets. The state supports the construction of social housing by means of state-budget transfers, sanctioned every year for this purpose from the MDRAP budget, under the state budget law.

As regards the discrimination of certain categories of people, particularly people of Roma origin, we would like to mention that in 200 the Government Ordinance 137/200 on the prevention and sanctioning of all forms of discrimination, with subsequent amendments and additions, came into force. Therefore, according to Article 3, the provisions of the

Government Ordinance 137/200 is applied to all natural or judicial persons, public or private, as well as to public institutions with attributions in the following fields: employment eligibility criteria, criteria and prerequisites for recruitment, selection and promotion, access to all forms and levels of professional orientation, training and advancement; social protection and security; public services or other services, access to goods and facilities; the education system; ensuring freedom of movement; ensuring public quiet and order, as well as other areas of social life. Moreover, according to Art. 16, paragraph (1) in the Romanian Constitution, citizens are all equal before the law and public authorities, without any privilege and discrimination.

At the same time MDRAP wants to create a draft law for the modification and amendment of the Housing Law 114/1996, including for the improvement of criteria for gaining access to social housing and linking them to the current housing demand.

Furthermore, as part of the project "*Effective and transparent coordination and selection of infrastructure projects financed with structural instruments and from the state budget for the period 2014-2020*", implemented by MDRAP, financed by the Technical Assistance Operational Program, representatives of the World Bank have voiced a series of recommendations with a view to elaborating a National Housing Strategy, a document still being drafted at the level of MDRAP. In this respect, the results of analyses conducted by World Bank experts as part of the aforementioned project will be used in the process of writing the National Housing Strategy.

3. *Point IV – Deficiencies of the 'social safety net' approach* (page 14): by means of the *Integrated package for combating corruption,* launched in February 2016, the Romanian Government intends to improve this approach, the set of measures being seen as *a safety net for those exposed to poverty risks, irrespective of age*. The package includes 47 measures addressing all age brackets, although focusing on the category of children. The recommended package will be funded from the state budget and European funds, both for applying already existing, although not sufficiently used measures, as well as for new measures, including pilot projects development by certain NGOs who have proved their efficiency.

4. *Point V – Conclusions and Recommendations / Roma (b)* – page 18*)*: part of the measures proposed in the anti-poverty package for the fields education, health care, employment and housing, are also addressed to the Roma population, depending on the needs that have been identified:

- National policy for preventing the separation of the child from his/her family at birth;
- No unidentified children;
- Ultrasound and medical screening at birth;
- Community nurseries in urban areas and paid nurses in the rural areas;
- Monitoring the enforcement of the law "Every Child in Kindergartens ";
- The After-school School – a national program in underprivileged schools;
- Social housing projects in Roma communities;
- Social inclusion of people with disabilities;
- A national program patterned on the model "Teach for Romania";
- Active employment measures, etc.

5. *Point V – Conclusions and Recommendations / Roma ((c, d) –* page 18*)*: starting with the Census of the population and homes of 1992, the issue of the Roma population not declaring their real ethnicity has become a subject of public debate.

It is a well-known fact that only a third of the Roma population declared they belonged to the Roma ethnicity in the census due to the predominantly negative perception of the majority population. In the 2011 census, problems linked to preparing the direct collection of data have determined an underestimate of the population, adding to the growing trend of people not declaring their Roma ethnicity in each of the three censuses conducted after 1989. The indirect collection of data from administrative sources was used to correct the underestimated values of the population, but these cannot be used for the variables ethnicity, mother tongue and religion. Therefore the results of the census in this respect have a larger margin for error.

Unfortunately, according to demographic experts, whereas the execution of the census is compromised, the Governments in the inter-census period (10 years) are forced to employ when grounding their public policies data that are doubtful, and to relate to essential indicators estimated using these data.

It is our conviction that it's not only enough to train special censors for areas with a high percentage of Roma population, but it's also about a much more difficult process: raising the awareness of the population in real time regarding the purpose of the census to obtain information about the population numbers, its territorial distribution and demographic, social and economic structure, which are absolutely key to the statistic system of any state.

We believe it is necessary to consult the National Institute for Statistics regarding recommendations c) and d) on Roma population.

6. *Point V – Conclusions and Recommendations / Roma (i) –* page 19*)*: referring to the *legislation in the field of housing*, considering the abovementioned, and taking under advisement the provisions of the Romanian Constitution, the Housing Law 114/1996 and the Government Ordinance 137/2000, we don't believe the legislation in force allows for the discrimination of Roma ethnics, as they are not discriminated against in terms of access to housing.

Moreover, we would like to mention that MDRAP is conducting, based on the provisions of the Government Decision 1237/2008, a Pilot Program on Social Housing for Roma Communities. The pilot program is aimed at implementing pilot projects for the building of a number of 300 social housing units in Romania's 8 development regions, in towns and villages chosen by MDRAP, following the proposals received from the National Agency for the Roma and from local public authorities.

This program is an experimental component for the application of the Romanian Government Strategy for improving the situation of the Roma, which is conducted via ANL and is financed from the state budget and / or in partnership with judicial persons of public interest. The pilot program Social housing for Roma communities was approved by the Ministry in 2009, based on requests from local councils, by means of implementing specific evaluation and prioritisation criteria for investment projects adopted by order of the Ministry for Regional Development and Housing 266/2009, taking into account the promotion of at least one investment objective for each of Romania's development regions.

The program was not finalised for reasons pertaining to the budget restrictions reported in recent years, but it will be run, within the limits of the budget earmarked for this purpose, as per the provisions of Government Ordinance 1237/2008. After the 300 social housing units are finalized under the pilot program, the opportunity of adopting a similar national project will be addressed.

Comments of the Ministry of National Education and Scientific Research:

1. With regard to ensuring the right of disadvantaged groups in particular to education, the access of Roma children to education in keeping with **Art. 85, paragraph (2) of *Law no. 1/2011, the Education Law, with subsequent amendments and additions,*** *"The state subsidizes all costs related to high school attendance by students from the rural areas or from socially and economically disadvantaged groups, as well as by those attending vocational schools. The way of subsidizing such costs is established under a Government Resolution, initiated by the Ministry of Education, Research, Youth and Sport."*

Also, ***Law no. 1/2011*** pinpoints the "The Second Chance"-type educational programs, primarily targeting the persons belonging to disadvantaged groups, under **Art. 29, 30** and **344** respectively as follows:

Art. 29, paragraph (4) *"The Ministry of Education, Research, Youth and Sport can approve the organization of "The Second Chance"-type educational programs with a view to fostering primary education for students who are by 4 years older than the age corresponding to the grade and who, for various reasons, are not primary education graduates by the age of 14."*

Art. 30, paragraph (2) *"The Ministry of Education, Research, Youth and Sport, in collaboration with the local public officials, through the school inspectorates, can develop "The Second Chance"-type educational programs, with a view to fostering secondary education for students who are by 4 years older than the age corresponding to the grade and who, for various reasons, are not secondary education graduates."*

According to **Art. 344, c), (i)**, the prerogatives of community centers of permanent education at a local level include educational services for children, young people and adults through:

"(i) remedy programs for acquiring or completing key skills, including "The Second Chance"-type educational programs or "priority education areas"- type programs for young people and adults who dropped out of school or who do not have professional qualification."

Given the above-mentioned, noteworthy is that from a legal point of view, equal access to education is guaranteed to all children and to the Roma population in Romania in particular.

Given the economic and social difficulties confronting certain categories of the population and a part of the Roma population in particular, MENCS is aware of existing disparities in the education system and has elaborated coherent policies with a view to increasing the access to education in general and bridging the gaps in terms of the quality of education.

In order to boost school attendance, over time, MENCS has developed a system of regulations focusing on specific aspects and besides the legal framework which guarantees the right to education, has drawn up and implemented aid programs/measures for various target groups. Some of them are as follows:

- assigning a larger number of places specially to Roma candidates to high school admission;

- providing institutional services and facilities by granting social scholarships and other types of aid to students in the state higher secondary education units coming from socially and economically disadvantaged families, disadvantaged areas or areas affected by unemployment (The High School Money Program – 180 RON/

a month, The "Professional Development Scholarship" Program – 200 RON/ a month, the 200 Euro Program for the purchase of a computer);

- providing school supplies for students from low-income families;

- subsidizing the transport of students commuting from one locality to another and coming from poor families;

- providing children from disadvantaged groups with environment facilities (running water and heat, adequate furniture, platforms for children with C.E.S. (special educational needs, etc.);

- granting a daily free lunch/snack to full-time primary school pupils (Law 16/2003 endorsing the Emergency Government Ordinance 96/2002 granting dairy and bakery products to students in the 1st-4th grades and subsequently to those in the state and private preschool education units– The Roll and Milk government program);

- starting with 2007, developing Inclusive Education Centers in every county with educational services to support the access of all children to education (school mediator, support teacher/ itinerant teacher, speech therapist, school counselor, etc.)

2. As to other measures for providing all children with quality education, based on the principles of inclusive education, we mention the involvement of our institution in conceiving and implementing the following strategic documents:

- The National Strategy on the Protection and Promotion of the Rights of the Child 2014-2020, as well as The plan for the implementation of the National Strategy on the Protection and Promotion of the Rights of the Child 2014-2016 (H.G. 1113/12.12.2014, initiated by the Ministry of Labor. Family, Social Protection and Elderly);

- The National Strategy on Social Inclusion and Poverty Reduction 2015-2020 (HG 383/2015, initiated by the Ministry of Labor, Family, Social Protection and Elderly;

- The Strategy on School Dropout Reduction in Romania (HG 417/2015, initiated by the Ministry of National Education and Scientific Research).

Worth mentioning along the same line is the undertaking of establishing the Division of Social Inclusion and Educational Partnerships within the General Higher Secondary Education Department of MENCS.

3. With regard to the recommendations on identity documents and school costs (page 19, 20), we point out the following:

- OMENCS 5115/2014 on the Regulation of the organization and functioning of higher secondary education units, Art. 118 (1-2) and Art. 268 stipulates:

- "(1) Any Romanian citizen or citizen of the EU countries, of the European Economic Area states and the Swiss Confederation can enroll in and attend, in the conditions stipulated by law, any form of education in the Romanian language, in the languages of national minorities or in languages of international circulation, irrespective of his mother tongue and the language in which he previously studied.

- (2) the persons who request or who have got a form of protection in Romania, foreign minors and stateless minors respectively, whose stay on Romanian territory is officially recognized, according to the law, enjoy the same rights.

- Art. 268 – The fundamental right to education is ensured in schools, where any form of discrimination against younger preschoolers, preschoolers, children, pupils and staff in the unit is banned."

- Art. 9 of OMENCS 3158/15.02.2016 on approving the Timetable and Methodology of enrolling children in primary schools for the 2016-2017 school year says:

- "(1) All children whose parents request their children's enrolling in the primary I preparatory class of the district school will be enrolled in the school requested."

- Those provisions practically guarantee the access of all children to education, irrespective of the existence or non-existence of identity documents. Furthermore, if schools are confronted with the case of a pupil who has no identity document, they will support, jointly with other relevant institutions at a local level, the parents' moves for clarifying the pupil's situation.

- Art. 128 – (1-4) and Art. 129 (1-2) of OMENCS 5115/2014 on the Regulation of the organization and functioning of higher secondary education units read:

"Art. 128 – (1) Throughout the calendar year, students in the compulsory state, licensed/accredited private vocational and high schools benefit from a 50% cut in transport fees, for the local public surface, naval and underground transportation, as well as for domestic road, rail and naval transport. (2) Orphan students, students with special educational needs, as well as those for whom a special protection measure was taken, according to the law, or guardianship was established, benefit from free transport for all categories of transportation under paragraph (1) throughout the calendar year. (3) The Ministry of National Education, through schools, give students who cannot be enrolled in schools in the locality of residence, a discount on their subscription-based transport expenses, within an area of 50 km, according to the law. (4) The students in boarding schools or lodgers enjoy the same facility under paragraph (3), getting a discount on the sum of money representing the price of eight return tickets during half a year.

Art. 129 – (1) The local public administration authorities in the locality of residence of students in the compulsory education system, enrolled in another locality, with the support of economic businesses or local communities or charities, as well of other legal entities or natural persons can provide those students, in well-justified cases, with transport, board and boarding school services. (2) In the conditions established under the Government Resolution, the state subsidizes the costs related to high school attendance by students coming from socially and economically disadvantaged groups, as well as the costs for those attending vocational schools."

Those provisions, as well as the measures of support laid out under paragraph (1) (The Roll and Milk, The Professional Development Scholarship, High School Money, Euro 200, school supplies, etc.) emphasize the fact that there is a legal framework for assisting children from disadvantaged groups in attending school.

4. With regard to persons with disabilities, the Ministry of Labor, Family, Social Protection and Elderly initiated Law 272/2004 on the protection and promotion of the rights of the child, republished in 2014. Foster care centers are subordinated to the General Departments for Child Protection. The prerogatives and the Frame-Regulation for the organization and functioning of the Child Welfare and Protection Department, stipulated under Art. 116 paragraph (5) of the above-mentioned law, are worked out by the Ministry of Labor, Family, Social Protection and Elderly.

Since 2011, we have had a new education law, Law 1/2011, on the basis of which the subsequent legislation for all areas of the education system has been drafted. Art. 48 of this law, with subsequent amendments and additions, stipulates that special education and integrated special education organized for persons with special educational needs or other types of educational needs, established by order of the Minister of Education, Research, Youth and Sport, is ensured for all levels of education, in a differentiated way, depending on the type and degree of disability.

Special and integrated special education is organized at all levels of higher secondary education, depending on the type and degree of disability (intellectual disability, hearing impairment, visual impairment, locomotor disability, associated disability) being an integral part of the Romanian national education system and offering all children/students/young people educational programs adapted to their degree of disability and development needs.

The legal provisions in the field of education in general and of special education in particular observe the provisions of the Convention on the Rights of Persons with Disabilities adopted by the United Nations General Assembly, in New York, on December 13th 2006 and signed by Romania on December 26th 2007. The Constitution and the laws governing Romania do not restrict the access of children/students/young people with disabilities to education at any level.

11-grade compulsory education, the compulsory attendance of day schools ceases at the age of 18. Special primary and secondary education is compulsory. The age of enrolment in special education units can be by 2-3 years older than the one for mass education. Types of special education with reduced attendance can be organized for students with C.E.S., who are by more than 4 years older than the age corresponding to the grade. Those types of education can also be organized for persons with special educational needs, who are immobile and of up to 30 years of age, while attending compulsory education units. The student with special educational needs/other types of educational needs, aged over 16, who could not graduate compulsory, common or special education, can be enrolled in a special vocational education unit with day classes and in parallel, can finish 9 grades in schools with reduced attendance.

In order to ensure the access of young children in particular to the instructive-educational process, the Education Ministry, school inspectorates and public authorities have the obligation to put in place preschool, primary and secondary education units in the children's localities of residence. If that is impossible, transport, board and boarding school conditions are ensured to children, according to the case.

The board of each school can decide what syllabus to apply depending on the type and degree of disability. Some special schools can apply the syllabus of mass education, which is adapted or differently conceived.

Special education units for children with sensory disabilities apply the syllabus of mass education. Those units preserve only the structure and form of organization of the special education system and the content, schooling and specialization are similar to mass education.

Special technological high schools, special vocational schools, special high school classes and post high school classes are organized according to the model of mass education (content, profiles, specialization, purpose, goals and/or skills). Teaching/learning strategies, ways and methods are specific to those schools.

Upon graduation, the students of those special schools take national exams (tests, baccalaureate or graduation exam) just like all mass education graduates. Facilities and adaptations of the way exams are organized and take place are stipulated for them.

A personalized intervention plan with objectives specific to individual psychic development needs and opportunities is drawn up for each student with severe, deep or associated disabilities.

Immobile students with chronic diseases, neurological disorders or illnesses requiring hospitalization longer than 4 weeks receive schooling at home or in hospital.

Students with special educational needs receive adapted exam procedures in case of usual evaluations.

In keeping with the Nomenclature of occupations, trades, specializations, in special education, students with disabilities, irrespective of the school they attend (special or mass) have the possibility of learning a trade compatible with their type and degree of disability. For certain trades, tuition is determined by the recommendation of the Medical Commission for testing the work ability.

Inclusive education was adopted in Romania as early as the 1990s, by observing the diversity, the initiation and application of access to and participation in education and social life of all categories of children. Today, around half of the students with disabilities benefit from tuition in mass education units. Many special education units have been turned into inclusive education centers. Students with special educational needs in mass education units benefit both from qualified services by support/itinerant teachers and from specific therapies granted by psychic healer teachers from resource centers.

As regards point 42 of the Special Rapporteur on Extreme Poverty and Human Rights, page 12, saying that nearly half of the children with disabilities are not enrolled in any type of school, be it specific or mass school, quoting as a source the European half yearly country Report on disabilities (2014), The Academic Network of European Disability Experts, we mention that we do not know the source/statistics/studies justifying such a statement or the statements according to which "students with disabilities stand seven times more chances than the other children to have no access to educational opportunities" or "it is twice more likely for students with disabilities to drop out of school after four grades."

With a view to enrolling all children with an adequate age in the primary I preparatory class and the first class, county school inspectorates (ISJ) and the School Inspectorate of the Municipal City of Bucharest (ISMB), in conjunction with local public administration officials register them in each school district.

School enrolment is a process which is permanently monitored through periodical reports at school inspectorates and MENCS.

Statistics are taken over on the basis of data supplied by each county school inspectorate, which in turn, centralizes the data supplied by schools. Data are collected every year and are indicative of the real situation at the time they were collected.

The Ministry of National Education and Scientific Research has worked out the Strategy on School Dropout Reduction in Romania in order to ensure a coherent and coordinated approach, concurrently with reaching the ambitious targets of the national agenda of the Europe 2020 strategy.

The strategy combines measures of prevention, intervention and compensation and focuses on interventions at schools' and students' level. The preventive measures are meant to reduce the risk of an early school dropout before the start of the problem, by ensuring an early solid basis for children to develop their potential and for facilitating the process of integration in the school environment. The intervention measures have the role of preventing and/or straightening out the school dropout by improving the quality of education and professional training in education institutions, by responding to early warnings and by giving specific support to students or groups running the risk of an early school dropout. The compensation measures are designed to support those who dropped out of school in an early stage to return to education, offering ways of reinsertion in education, professional training and acquiring a qualification.

The Strategy on School Dropout Reduction proposes four pillars and six representative programs, consisting of prevention, intervention and compensation measures.

PILLAR 1: ENSURING ALL CHILDREN'S ACCESS TO EDUCATION AND QUALITY EDUCATION

Representative program 1.1: The increase of the children's access to early care and education. This program aims to strengthen and consolidate the successful extension of the children's early education, based on the finalization of preschool education (3-6 years of age) and the initiation of a fast extension of ÎETC services provided for children under 3 years of age (particularly for 2-3 year old children)

Representative program 1.2: Ensuring quality primary and secondary education for all.

This program is based on the achievements obtained in terms of enrolment in primary and secondary education units. It will focus on two main areas of intervention: the eradication of functional illiteracy and the development of key skills and the consolidation of teacher training at the workplace.

PILLAR 2: ENSURING COMPULSORY EDUCATION GRADUATION BY ALL CHILDREN

Representative program 2.1: The development of early warning systems and the consolidation of remedy and support programs for students at risk in compulsory education.

The program will develop early warning and intervention systems to detect children running the risk of school dropout. Likewise, the program will support, consolidate and extend various prevention and remedy programs, including the afterschool program.

Representative program 2.2: The improvement of the appeal, inclusion, quality and relevance of vocational and technical education (ÎPT).

This program will redesign ÎPT routes in order to increase ÎPT appeal and relevance, by extending learning opportunities at the workplace included. Also, the program will foster the ÎPT curriculum reform and teacher training.

PILLAR 3: THE REINTEGRATION OF PERSONS WHO DROPPED OUT OF SCHOOL IN AN EARLY STAGE INTO THE EDUCATION SYSTEM

Representative program 3.1: Ensuring an adequate offer of the Second Chance-type educational programs.

This program aims to support the students who dropped out of school in an early stage, on a short term by ensuring their access to and participation in the Second Chance program, in the context in which the prevention and intervention programs are implemented

on a medium and long term. Likewise, the program aims to improve the quality of the Second Chance program.

PILLAR 4: THE DEVELOPMENT OF AN ADEQUATE INSTITUTIONAL AID

Representative program 4.1: The consolidation of the government's capacity of implementing, monitoring and assessing the strategy on the PTS reduction.

This program will foster the creation of a favorable environment for the implementation, monitoring and assessment of the strategy, focusing on the government's capacity and ability of adopting a comprehensive approach in order to solve the challenges of an early school dropout.

As regards the low quality of education in the special schools, we mention that the external assessment made by the Romanian Agency for Ensuring Quality Higher Secondary Education (ARACIP) shows (in the Report on the quality of higher secondary education in Romania, 2012) that 98.43% of the representative sample of assessed schools have measured up to the accreditation standards (standards defining the minimum mandatory level of "quality").

In 2015, the National Report on quality in the public higher secondary education units in the rural areas, drawn up by ARACIP referring to the schools' capacity of offering quality educational services makes it clear that "there is no school where this capacity should be identified to a very small extent."

Comments of the Health Ministry:

The development of community, integrated and comprehensive healthcare services destined primarily to the population in the rural areas and to vulnerable groups, Roma included, is high on the Government agenda.

Community healthcare includes the package of health programs, healthcare services and public health projects provided to communities with a view to increasing the population's access to healthcare services, especially to those focused on prevention.

The aim of community healthcare is the improvement of the population's health by reducing the disparities regarding the access to healthcare services among people at community level and between communities.

At present, the Health Ministry finances 1,266 community nurse jobs and 420 health mediator jobs for the communities with a predominantly Roma population.

Community healthcare is provided by community nurses and health mediators.

The community medical staff carries on its activities within an integrated system with the staff providing social services at community level, with the practices of family doctors, with other providers of healthcare, social, educational services, with nongovernmental organizations providing relevant services included.

The goals of community healthcare are the following:

a) the active identification of the medical and social problems of the community and of people, with emphasis being laid on vulnerable people and families;

b) facilitating the access of the vulnerable population in particular to healthcare, social and educational services;

c) promoting attitudes and behaviors endorsing a healthy lifestyle and achieving education for health;

d) implementing healthcare programs, projects and actions and interventions meeting the community's needs;

e) providing healthcare services according to professional skills.

The activities carried out in the field of community healthcare with a view to achieving the goals of community healthcare are the following:

a) fostering the community's health through education for health in connection with the most important and decisive factors of health (a healthy lifestyle, the attitude towards health and medical services, family planning and reproductive health, nutrition, providing a healthy environment);

b) providing community members, especially persons belonging to medically or socially vulnerable groups with primary, secondary and tertiary prevention medical services;

c) identifying health risks and medically or socially vulnerable persons and groups;

d) medical and social counseling according to professional skills;

e) directing vulnerable persons to medical, social and educational services and monitoring their access;

f) healthcare at home for pregnant women, newborn babies and mothers, patients with chronic diseases and elderly, complementary to primary, secondary and tertiary healthcare;

g) emergency healthcare according to professional skills.

In September 2014, a think tank in the field of community healthcare, including health mediation, was set up within the Health Ministry, whose goals are making proposals for clarifying and harmonizing the existing legal framework of community healthcare activities, including health mediation, defining the organization and functioning of integrated community centers and elaborating working tools, guide books and protocols for community healthcare staff (community nurse and health mediator). The think tank is made up of representatives of ministries that play a role in the social inclusion of vulnerable groups including Roma, as well as representatives of Roma and non-Roma NGOs and such international organizations as WHO and UNICEF. The Health Ministry initiated the establishment of that think tank to achieve a coherent framework for the development of medical, social and educational services in an integrated system in order to enhance the access of persons belonging to vulnerable groups, including Roma, to quality services. The think tank has drafted and with the support of experts from the Prime Minister's Chancellery has finalized the Draft Law of community healthcare and integrated community centers, which at the moment has been submitted to ministries for endorsement. The purpose of that law is to regulate the organization, functioning and financing of community healthcare activities and integrated community centers.

The Integrated Community Center is a functional structure providing integrated services at community level, such as community healthcare, medical and public health services, welfare and welfare work, services for access to the education system and the prevention of school dropouts, employment, identity, equal opportunity services, particularly for vulnerable persons and families.

The development of the community healthcare and integrated community center network are pointers assumed by the Health Ministry in the 2015-2020 National Health Strategy, in the 2015-2020 Strategy of the Romanian Government for the Inclusion of Romanian Citizens Belonging to the Roma Minority, as well as in the Action Plan for the

Implementation of the 2015 National Reform Program (PNR 2015). The improvement of the vulnerable persons' access to healthcare services (a project that was also in PA RST 2015), the development of the healthcare network organized at the level of local communities with a view to solving medical and social problems (the deadline: quarter IV/2015) and the Action Plan for the implementation of the specific country Recommendations (RST 2015).

At present, the Health Ministry finances 1266 community nurses (AMC) and 420 health mediators for the Roma communities (MSR). In keeping with the measures laid down in the 2015-2020 National Health Strategy, in 2015, the funds approved for the budget of the Health Ministry with regard to community healthcare activities increased by 3,000,000 RON as compared with the 2014 budget provisions standing at 28,901,000 RON. In 2015, 399 new community nurse jobs and 95 new health mediator jobs were approved.

45 community nurses and 45 health mediators (May 2015-April 2016) are employed with salary payment through projects funded by the Norway Grants as part of the RO 19.03 project The Strengthening of the National Network of Roma mediators for the improvement of the Roma population's health status and another 34 community nurses and 4 health mediators (2015-2017) are employed through the project "Social inclusion by providing integrated services at community level in Bacău County" funded by Norway Grants and UNICEF.

Since April 2014, the Health Ministry has been implementing the RO 19.03 project The Strengthening of the National Network of Roma Mediators for the improvement of the Roma population's health status funded by the Norwegian Financial Mechanism of developing the community healthcare and health mediation network in 45 communities with a predominantly Roma population in 6 counties (Botoşani, Piatra Neamţ, Dolj, Gorj, Giurgiu, Călăraşi, Giurgiu).

The project is expected to give more information and evidence about the health behavior of the Roma population, so that the public health authorities may take action based on proofs, with a view to improving the lifestyle of the Roma communities, with a significant positive impact on the Roma population's health status. The setting up of local teams made up of Roma community nurses and health mediators is expected to considerably improve the Roma's access to healthcare services in the next few years. All this will ultimately contribute to improving the pointers.

Comments of the Romanian Institute for Human Rights:

The mission of the Special Rapporteur of the UN Council for Human Rights on matters of extreme poverty and human rights from the very start sought to deal with a broad array of issues, all of which presented connections and implications far beyond its initial scope. The institutions able to provide accurate and edifying information on the status quo in Romania in terms of extreme poverty and its reversal in connection to the issue of human rights, as well as communication with local representatives of central authorities and representatives of communities, particularly in those areas where matters of concern had been signaled, have highlighted the interest and willingness of Romania to ensure the success of this mission.

The data presented in the Report is relevant and reflect the realities in question. Unfortunately, they reflect the current status of Romanian society, currently dealing with serious and apparently insurmountable issues on the short and medium term. The high level of poverty at the level of large segments of the populations, the discriminatory actions at social level addressing poverty-stricken segments of the population in particular, the flaws in the Government's social policies, their inconsistencies, deficient budget allocations to

certain fields (such as education or healthcare), the imbalances between various regions or areas of the country, have all emphasized a rather gloomy picture instead of a hopeful scenario, at a time when economic, financial and ultimately social challenges never cease to accumulate and aggravate.

The report contains advisable observations that cannot be overlooked nor minimized, out of a desire of certain internal decision-makers to attach a convenient image to Romania for international bodies and other foreign partners to recognize.

It is worth mentioning that Romania's current situation is undoubtedly one no short of dramatic, marked by imbalances with respect to other, more economically and socially developed states, despite the positive steps taken to do away with these imbalances and some of the social policies adopted by decision-makers. Generalized poverty, of course, as well as polarizing wealth and poverty in Romanian society is an objective, undeniable reality. Poverty is the source of growing social tension, often accompanying discriminatory practices encouraged by the diminished resources, the unfair distribution of funds at central and local level. For this reason, some aspects of the relationship between phenomena of extreme poverty and manifestations of social discrimination, with its multiple facets, must be carefully separated, as material deprivations are those that condition social exclusion and inequality of chances on the labor market. It is less about a cultural pattern ensuring the combustion of discriminatory practices, and more about the institutional deficiency and inconsistency in implementing certain projects in the field. A case in point can be the observations and recommendations formulated by the UN Rapporteur with respect to the Roma community in Romania. Statistics on the growing degree of poverty of the population of Roma ethnicity, as compared to the situation of other poverty-stricken segments of the population at national level, is registering higher values. But brash generalizations can lead to errors in judgment. At the level of the Roma population there are social discrepancies and extreme polarizations of poverty and opulence, as well as unwritten and unseen forms of inter-community discrimination. Moreover, the very author of the Report notes in the end that there are too many entities charged with implementing the Roma inclusion strategy: the National Contact Center for the National Roma Inclusion Strategy, the State Secretary of the Ministry of European Funds, the National Agency for the Roma, the Inter-Ministry Committee and the Technical Secretariat for coordinating the relevant line ministries for the Roma Strategy, the advisor on Roma matters with the Prime Minister's Cabinet. Their roles and responsibilities are unclear and overlapping, while the unified and functional coordination is lacking altogether. Therefore, obstacles arising in this sphere of activity are bureaucratic in nature, apart from the many inconsistencies in the appropriate accessing and management of European funds addressed to the social inclusion of the Roma population.

Another example in this respect is the divergence between Romania's image as an EU Member State, who ratified the Convention on the Rights of People with Disabilities (CRPD), who is making efforts to implement the EU Strategy for Disabilities for the period 2010-2020, and the difficulties faced by people with disabilities in Romanian society. There is no proper and unitary understanding of the concept "disability." In addition, there is no clear-cut statistics on the volume and features of the population segment describing people with disabilities. There is still an important number of people with disabilities in institutional care, with a clear tendency to resist efforts to take them off institutional care with a view to their recovery and rehabilitation, at the same time setting up an adequate infrastructure and providing the necessary service to allow people with disabilities to sustain themselves in community life. Therefore we need a closer monitoring of these aspects, an effort also undertaken by the Romanian Institute for Human Rights with utmost continuity and responsibility, in its position as an independent monitoring mechanism in accordance to Article 33.2 of the CRPD.

In the final section of the Report we are referring to, the Special Rapporteur of the UN Council for Human Rights on matters of extreme poverty and human rights is referring to the need for certain reforms that should allow for the well-functioning of institutions operating in the field of human rights. The report states: "The existence of the current plethora of institutions in the field of human rights is a problem. None of them is sufficiently efficient, their responsibilities overlap and they are underfunded."

The Ombudsman has been rightfully accused of failing to fulfill its obligations, while the National Institute for Human Rights has neither the necessary level of independence, nor the capacity to perform all the functions that such a body must accomplish."

The Romanian Government is therefore urged to operate reforms at the level of the institutional paradigm so as to ensure the independence, the necessary funds and qualified human resources for the functioning of these institutions.

With respect to these observations, we would like to make a couple of clarifications:

- The Romanian Institute for Human Rights (IRDO) is an independent organism with judicial personality, set up under Law 9/1991, with nearly 25 years of uninterrupted activity in the field;

- IRDO is the first national institution for human rights ever created in Romania after 1989 and the only national institution in our country to be recognized as having this quality by the UN Committee for Coordinating National Institutions for Human Rights; IRDO is also a member of the European Network of National Institutions for Human Rights, of the European Law Institute in Vienna, alongside the High Court of Cassation and Justice, of the International Institute of Law of French Expression and Inspiration (IDEF);

- IRDO observes the Paris Principles of 1991 formulated at the Conference addressing national institutions for human rights, which became an official document of the UN General Assembly in 1993 and which follow these provisions: "a broad mandate" that should be based on the universal standards of human rights and which should include the double responsibility of promoting and protecting human rights, covering all rights; independence from the Government; independence granted under the Constitution or the law; proper investigation authority; pluralism, including through the structure of its personnel and/or effective cooperation and proper human and financial resources;

- The activity of IRDO is managed on a daily basis by a steering committee and is coordinated by a board of directors, with broad representation, made up of public figures, MPs from across the political spectrum, representatives of the academic environment, representatives of NGOs, which indicates a genuine pluralism and an assumed independence;

In early 2016, the Institute benefited from a proper budget in order to guarantee its functional independence, allowing it to hire new people, according to the request made also by the Council of Europe by Recommendations R (79) 16 and (97) 14 of the Committee of Ministers, which ensured the partial cover of specialty personnel included in the organization chart contained in the Appendix to Law no. 9/1991 on the setup and functioning of the Romanian Institute for Human Rights.

Comments of the Ombudsman:

The Ombudsman, a fundamental constitutional institution, stipulated by Art. 58-60 in the Constitution and set up under Law 37/1997 on the organization and functioning of the Ombudsman, is an independent and autonomous public authority, whose only purpose is the defense of rights and liberties of natural persons in their relations with public authorities.

Regarding racial discrimination, the facts presented herein are relevant to the aforementioned description.

On October 1, 2014 the Ombudsman took legal action (case file 10442/2014) in response to a news report in the media, headlining "Tens of people evacuated at Vulturilor Street are sleeping in the street for the last couple of days," a report presenting the situation of a group of 70-80 people, including minors, who ended up living in the street after being forcefully evicted from their homes on 50 Vulturilor Street in Bucharest, District 3.

The efforts undertaken by the Ombudsman institution in 2014 (on-scene investigations, notifying the state institutions responsible for the protection of vulnerable persons, hearings of representatives of people who were evicted, enquiries carried out by representatives of the Ombudsman institution at the level of the District 3 City Hall, the Real Estate Service, and at the level of the Service for Housing Space and Other Uses with the Bucharest City Hall) continued until 2015.

The situation of the evicted citizens is delicate, given that they are living in improvised wooden and cardboard barracks in the street, in constant danger of being demolished, located on the public domain of the Bucharest municipality.

Following the actions of the Ombudsman, the Bucharest City Hall, via its Housing Space and Other Uses Service, in the notification 2965/2015, the Bucharest City Hall announced that starting October 1, 2014 the Housing Service analyzed and responded to a number of 27 applications submitted by people who were evicted from 50 Vulturilor Street, District 3, specifying the procedure they must follow and the documents they must present in order for their applications for a social house from the state housing fund should be submitted for analysis to the Committee for evaluating the exceptional situations of citizens of Bucharest, social housing applicants, also requesting in this respect a social enquiry by the Service for social enquiries, social assistance, adult homeless persons with the General Directorate for Social Assistance, in order to perform a social investigation, given that this document is a prerequisite to the documentation submitted for analysis to the Evaluation Committee. Last but not least, a number of 16 fully documented files were forwarded to the Committee with a view to analyzing them and deciding on the requests of the people in question to be allocated social housing, in accordance to the procedure laid out by the General Council of the Bucharest Municipality in the Decision 330/2009 on the allocation of housing units procured by the Bucharest Municipality from its own funds, and one of them was adopted during the meeting of the General Council of the Bucharest Municipality.

The District 3 City Hall and the General Directorate for Social Assistance and Child Protection, as a result of the efforts of the Ombudsman, stipulated that, at the time of the eviction, the people who had their residence in District 3 were offered shelter in the building of the Emergency Social Service (men and women) and at the "St. Mary" Shelter for Victims of Domestic Violence (women and children). In addition, people who resided in other Districts and counties, the District 3 General Directorate for Social Assistance and Child Protection (DGASPC) in cooperation with the Bucharest City Hall General Directorate for Social Assistance and Child Protection offered housing at the "St. John" Service Compound (men and women) and at the District 4 Assistance Center for Mothers

and Children (mothers and children). At the same time the people were urged to also address the General Directorates for Social Assistance in the districts of their residence. Last but not least, the District 3 General Inspectorate for Social Assistance and Child Protection announced that their representatives went on numerous occasions to the address of the building on 50 Vulturilor Street in order to persuade the remaining people to accept taking shelter in specialized centers, as well as to enroll in the rental housing program, each time receiving a negative answer, as people were confident they would receive social housing units: none of the three families wanted to access the rental program, which they also put in writing. At the same time a list of all the people evicted from 50 Vulturilor Street who applied for social housing was made.

Considering the results of the efforts carried out by the Ombudsman, as well as the lack of cooperation between the institutions involved in the protection of the evicted people, we have agreed that local public authorities did not observe the rights stipulated by Article 47 of the Constitution, referring to a decent living standards, for which reason the Ombudsman has issued two Recommendations, one addressed to the Interim Mayor of Bucharest and another addressed to the District 3 City Hall of Bucharest.

By means of the two issued Recommendations, the Ombudsman brought to the fore of the two authorities the following: take action with a view to relocating the evicted families, providing them with basic shelter / proper housing; make available funds in the local budget for building new social houses and purchasing necessary homes; take action to relocate the families that were evicted, providing them with basic shelter / proper housing; take the necessary measures in cooperation with District 3 DGASPC, in order to observe the rights of children originating from families that were evicted; to make available funds in the local budget to build new social housing units and purchase necessary homes; to inform the Ombudsman regarding all the measures taken.

As a result of the issued Recommendations, the Housing Space and Other Uses Service with the Bucharest City Hall has informed us that the recommendations had been forwarded to the Mayor General of Bucharest, to the relevant services with the Bucharest City Hall, as well as to the General Council of the Bucharest Municipality, for analysis and proper solving.

As the Recommendations did not reach the Mayor of Bucharest District 3 and the Interim Mayor of Bucharest, in January 2016 the Bucharest Municipality Prefect was notified. The Bucharest Prefect's Office called on the Bucharest City Hall and on the District 3 City Hall **to perform a re-analysis of the housing status of the people in question and to expediently distribute a home to the people who are legitimate applicants as per the provisions of the Law on public administration 215/2001, republished, with all the legislation in the field.** The case is still being processed by the institution.

Amnesty International has called on the Ombudsman and on several other public institutions and authorities (The Ministry of Regional Development and Public Administration and the Constanța Prefect's Office) to provide clarifications regarding the immediate evacuation by the Eforie Town Hall of a number of approximately 30 Romanian citizens of Roma origin (account for 8 families), at present residing in 80 Mihai Viteazu Street, Eforie. Amnesty International attached to it request (dated April 29, 2015) a letter addressed to the Mayor of the Eforie Town Hall, containing the following: details of the aspects in question; international treatises and conventions Romania is part of and that were potentially violated; recommendations; a set of 8 questions the Eforie Town Hall must answer, which should help Amnesty International make an objective evaluation regarding the planned evictions at 80 Mihai Viteazu Street in Eforie.

For the clarification of the circumstances signaled by Amnesty International, in accordance with the stipulations at Article 59, paragraph 2 in the Romanian Constitution, consistent with those of Art. 24 in the Rules for Organization and Functioning of the Ombudsman, experts with the Constanța Territorial Office of the Constanța have conducted, starting May 21, 2015, an investigation at the Eforie Town Hall, Constanța County, where they held talks with the town's deputy mayor.

During the investigation, representatives of the Eforie Town Hall presented documents and made individual declarations with respect to the problems that required solving, as follows:

Referring to the legal basis for eviction: based on the Decision of the Local Council 218/2013, the Eforie Local Council has decided the allocation of a social housing unit to families whose homes were demolished in the Boarding School building in Eforie Sud, located at 80 Mihai Viteazu Street. The duration of the rental agreement was set for a definite period of time, no longer than 6 months. At the same time the Council decided that after the duration of the contract expires, the tenants will evacuate the building, without having to delay the process or the intervention of a court of justice and any other further formalities. The decision was submitted to all interested parties by the Secretariat of the Eforie Town Hall. Under the decision, S.C. Efo Publiserv S.A. was appointed to sign rental agreements for the allocated units, but they were never signed, as the interested parties never expressed a will to do so (no show).

The Eforie Local Council issued, based on Law 215/2001 on the local public administration, the Local Council Decision 90/28/04/2015, whereby demanding the eviction of the Boarding School building by 30.06.2015. (Appendix 2, copy of the Local Council Decision 90/28/04/2015).

As a result of this Local Council Decision, which was notified to the interested parties, by displaying it at the site of the building, the local public authority issued individual formal notices whereby the tenants were informed that the eviction procedure was about to kick off and that a period of notice on the eviction had been set. There were cases where the communication procedure was fulfilled by gluing the notice on the building door, as some of the tenants were not found at home. (Appendix 3, copies of the notices). The representatives of the Town Hall claimed that the Local Council Decision had not been legally challenged and remained final, as the parties did not exert their right to appeal and by the date of the investigation no undertakings with a view to suspending the effects of the administrative act issued by local authorities had been made.

As regards the reasons for the eviction the following aspects were taken into account:

The technical condition of the building:

Representatives of the Town Hall said a technical expertise was performed, sanctioned by the Eforie Local Council on 30.09.2014. The technical expertise revealed that the functioning interval of the building was 70 years, with the performance of major repairs, at an interval of 25 years, the building was approximately 90-years old.

Following the technical expertise of the Boarding School in 80 Mihai Viteazu Street, visible degradations of the building and its structural frame were discovered. The main causes behind the degradation of the building are mentioned at page 6, paragraph 1, as follows: the age of the building and the nature of the material used in its structure, the ageing phenomena of the materials used; the lack of major repair works and significant currents, which should rehabilitate the deficiencies in the roof boarding and in other elements due to the passage of time; the total lack of maintenance of sanitation, sewage and water pressure facilities; the total lack of sanitation actions in the building.

Given the conclusions of the technical expertise, the representatives of the Town Hall considered that the building posed a high threat to the life and safety of those who live in the Boarding School.

The exploitation and maintenance of housing areas:

In the report 18644/03.06.2015 issued by inspectors with the Directorate for the Administration of the Public and Private Domain within the Eforie Town Hall, and following checks performed in the building and the extensions of the Eforie Sud boarding houses, the following aspects are highlighted: the lack of heating facilities; the lack of metallic foundation pillars in the boarding school cafeteria; damaged wooden windows; damaged wooden staircase; missing metal railings; missing roof for the building extension and metal woodwork; destroyed bathroom and kitchen facilities in the cafeteria; garbage dump in the courtyard, in the mess hall, in the interior courtyard and in the extensions; total lack of hygiene, decommissioned heating system.

The representatives of the Town Hall claimed that all these deficiencies and damages were caused by people who live in the building. The report written by the Eforie Local Police Service 373/04.06.2015 describes the fact that, after all the people had been notified on the eviction of their temporary housing units, the behavior of Roma residents towards the facilities in the building escalated, in the sense of destruction of assets, illegal garbage disposals, including in the building staircase and access halls, and the abstraction of any iron material for reselling. As a result, the local police suggested the Eforie Town Hall to notify the Roma Center Foundation for Social Interventions and Romani Criss Studies, to let them know about this type of behavior in society in community.

Failure to observe the obligation to pay utility bills:

The Eforie Town Hall covers the utility-related expenses and maintenance costs for the families living in the Boarding School (40 adults and 25 children). The tenants reported delays in paying their utility bills. Town Hall representatives claimed they intervened repeatedly to convince them to pay their utilities, but the debt could not be recovered.

According to the report 373/04.06.2015 issued by the local Police, the families housed in the boarding school don't maintain their personal units and common areas, on the contrary, they created huge piles of garbage, plastic bottles, tree branches and manure from the cattle raised in the school's interior yard. The place had become a genuine infestation threat for all the building's inhabitants and their neighbors. In order to eradicate the infestation threat for the whole area, the local public administration decided to clean the entire area by disposing of and transporting the garbage (some 7 tons of it) using a specialized utility company, which the town hall paid for.

Referring to the measures taken by local authorities to find alternative housing so that the evicted Roma should not be affected, according to the deputy mayor's claims, the Eforie Town Hall founded, based on the Local Council Decision 148/27.07.2012, a special committee to deal with the distribution of social housing units, which recommended the purchase of new container-like modular units, for some of the families with children and some of the homeless elderly.

In Eforie Sud there are two P+8 social housing units currently in construction that will be finalized over the coming period. All the residents of the boarding school, who reside in Eforie, have the possibility of submitting an application to be allocated a social housing. Thus any family that submits all the documents requested by the city hall will be allocated a social housing unit, after the files have been analyzed and a classification is made under legal provisions. The basic criteria for distributing social houses will take into account the provisions of Articles 42 and 43 in the Housing Law 114/1996. For each

criterion, when establishing the priority lists, the following aspects will take priority: the number of children and the other people that house together with the applicants; the health condition of the applicants or of their family members; the date the applications were filed.

When reviewing the situation of these families threatened to be evicted, local authorities stipulated that social enquiries were made that revealed the following aspects: the structure of the families and their income, the people's health condition, their employment status, the hygiene norms, their payment obligations, etc. The social enquiries revealed the people who do not reside in Eforie or who don't hold valid ID cards. The boarding school is home to families of both Roma origin and Romanian citizens.

As regards the measures the local authorities have taken to make sure the eviction of Roma families living there with no legitimate claim did not breach any human right, the local authorities claim they were first and foremost taken with a view to ensuring the safety of these citizens, given the building posed a high threat to the life of its residents. In this respect, representatives of the Eforie Town Hall saw it fit that the eviction from a building displaying an advanced state of decay was a measure that prevents and guarantees the safety and life of the citizens inhabiting that area, and moved to the following actions: the citizens were informed about the possibility of submitting an application to be allocated a social house, in two of the social housing buildings, which total some 124 apartments, located on Soarelui Boulevard in Eforie Sud; social enquiries were carried out in order to be attached to the social housing applications for the time the authorities will analyze each application for each family; the Constanța DGASPC was sent the notification 17146/19.05.2015, whereby informing that starting 8.06.2015, the people residing in the boarding school on 80 Mihai Viteazu street will be evicted.

As regards the potential housing alternatives the local authorities had in store for the evicted families, according to the application norms of the Housing Law 114/1996, "eligible for social housing, with a view to renting units, are all people with an average monthly net income in the past 12 months below the national average monthly net income, as transmitted by the National Institute of Statistics, prior to the month the application is processed, as well as prior to the allocation of the home."

In this respect, representatives of the town hall claimed that the families that were to be evicted were presented the alternative of renting housing units in the two social housing buildings that were being constructed. They were offered jobs with a local company commissioned to maintain green areas, S.C. EFO PUBISERV S.A based in Eforie, in order to be able to pay their rent. Some of them took the jobs, but most of them refused, due to the national minimum wage it offered, which they regarded as unsatisfactory.

As compared to the provision in the local budget for alternative housing for these families, the local budget of the Eforie Town Hall had no money earmarked for the purchase of necessity homes in 2015, or for the building of new social units. Two apartment buildings P + 8, totaling 124 social units are being constructed on Soarelui Boulevard in Eforie Sud, which will be finalized over the coming period and which a co-financing rate for 20% of the investment has been approved, and will be covered by the Eforie Town Hall. Projects have been submitted with a view to accessing European funds, but the lines of financing were never addressed for the building of social housing, or were rejected for failing to observe the prerequisites in the application guide.

As a result of the enquiry, and given that the Ombudsman issued another Recommendation, 12/21.10.2013, addressing the Mayor of Eforie, the Recommendation 8/2015 was issued. In the notification 27164/22.09.2015 the authority took notice of the Ombudsman recommendation, "in accordance with the treatises and conventions Romania is part of." In addition, the Town Hall states that the Social Assistance Service within the City Hall is constantly monitoring families of Roma ethnicity.

Subsequently, by means of the notification 13825/14 submitted to the Ombudsman in October 2015, the Eforie Town Hall stated the following:

As regards the relocation of the 8 families of Roma, the Town Hall has called on several institutions to get involved: the Directorate for Social Assistance and Child Protection, the Red Cross, the Constanța Prefect's Office.

Under the Local Council Decision 218/31.10.2013, the Town Hall relocated 8 families (12 adults and 19 children) to the Eforie Sud Boarding School as well as to the Veghe School in Eforie Sud. Subsequently, under the Local Council Decision 156/15.07.2014, the Local Council earmarked 8 container-type housing units to the families that had been residing in the two venues until then;

The Town Hall took steps to acquire funds with a view to solving the problems linked with the housing rights faced by the people in question. In this context, mention is made of the pilot program "Social Housing for the Roma Communities."

Referring to the emotional frame of mind of the underage children in these families, psychological counseling sessions were provided, but they didn't show up;

The Directorate for the Administration of Public and Private Domain drafted a report (248/14 April 2015), whereby social housing units will be allocated to the evicted people. The case is still pending.

As regards point B in the Report of the Special Rapporteur on extreme poverty and human rights, entitled "Preventing police violence," in 2015 the notifications addressed to the **Military, Justice, Police and Penitentiary** Department also concerned alleged crimes committed by police employees against civilians.

In response to the notification, as a result of a news report in the media, according to which a woman crossing the street illegally, when asked to present her ID, was assaulted by police employees, **the Ombudsman referred the matter to itself.**

Regarding the abovementioned facts, based on Article 59, paragraph (2) in the Constitution and on Article 4 in the Law 35/1997 on the organization and functioning of the Ombudsman, republished with subsequent amendments and additions, we have called on the Ministry of Internal Affairs, the General Police Inspectorate of the Bucharest Municipality to look into the matter, take the appropriate measures in line with legal provisions and notify the Ombudsman.

Following these actions, we received a notification from the Ministry of Internal Affairs – the General Police Inspectorate of the Bucharest Municipality, stating the following: On June 4, 2015, in the area between Colentina Street and Obor Square, the Road Traffic Police carried out a pre-emptive activity, given that the area is known for being prone to road accidents as a result of pedestrians crossing the street illegally.

In this respect, a female citizen crossing the street illegally was identified. Police employees with the 7 Police Station stopped the offence and asked the person to ID herself. She became aggressive and refused to comply, and as a result she was cuffed and taken to the station in order to have her ID-ed and given the fine.

An offence notice was written up in her name, according to Article 2, points 24 and 31 in the Law 61/1991 on the penalties for violating norms of social cohabitation, order and public order, republished.

The police employees acted on the basis of the provisions of Article 9 of the Government Decision 991/2005, allowing the use of force under special circumstances, also in line with Article 31, paragraph (1), letters a) and b) in the Law 218/2012 on the organization and functioning of the Romanian Police.

Moreover, the Bucharest District 2 Prosecutor's Office is still investigating the criminal case X/P/2015, regarding a criminal charge for the crime of abusive behavior and abuse of office.

As the case has been solved within the remit of the Ombudsman, an additional intervention was deemed unjustified. The case was closed.

Recommendation 3/2015. The Romanian Association for Defending the Human Rights in Romania – the Helsinki Committee claimed the need "to shut down the old headquarters of the Police Station 10 in 10 Stelea Spătaru Street, Bucharest District 3, after police employees committed a series of abuses against several people at this address in the recent period" (an argument grounded on the existence of notifications filed in this respect by citizens, and on the existence of some criminal investigations still being carried out by the relevant authorities).

Referring to the information on the alleged abuses committed by the personnel of Police Section 10 in the recent period, the existence of criminal investigations, as well as their resolution status, the General Inspectorate of the Romanian Police informs that from January 1, 2014 until December 12, 2014, the Internal Affairs Office of the District 3 Police reported a number of 28 criminal investigations on actions of criminal matter committed by police employees with the Police Section 10.

The 28 criminal investigations refer to crimes of "abusive behavior" and "abuse of office." Of these, 12 have been solved, while another 16 are still pending. The investigations have so far revealed that most of the complaints filed against police employees were the result of the people's disgruntlement with the measures they took while fulfilling their duty in the field.

So far these complaints have not been confirmed, and the proposal submitted to the Prosecutor's Office is not to commence prosecution and to close the cases. On this occasion, some proposals were advanced to refer the matter to another authority and declining jurisdiction, but in none of the cases the authorities started criminal proceedings against the police employees in question on criminal charges.

The investigation was carried out in these cases by the personnel of the Internal Affairs Office, in accordance to the provisions of prosecutors surveying their activity, and so far no case processed by the relevant prosecutor's office has been returned to start prosecution or modify the initial proposal.

At the same time, the Prosecutor's Office with the Bucharest Tribunal is investigating a criminal case where a police employee with the Police Station 10 in Bucharest was brought to court on pre-trial arrest on charges of "aggravated assault" (a legal classification that was swapped for "murder"), while at the level of the Internal Affairs Office with the General Police Inspectorate of the Bucharest Municipality a number of 2 criminal investigations were submitted on acts of criminal matter committed by police employees with Police Station 10, which were both closed.

Additionally, in light of the information regarding the existence of a criminal case at the level of the Prosecutor's Office with the Bucharest Tribunal, allegedly involving police employees with Police Station 10 in Bucharest (in addition to the older case which we referred to above), the Prosecutor's Office with the District 3 Court of Justice has informed that in the respective case (turned down by the Bucharest Tribunal Prosecutor's Office), investigations are carried out in the name of a police employee of Police Station 10, on charges of committing two crimes of abusive behavior, as defined by Article 296, paragraph (2) in the Criminal Code, namely on the nights of September 20 and 21, 2014, while fulfilling his duty in the field, he assaulted two people.

In this context, on January 22, 2015 the case was referred to the Prosecutor's Office with the Bucharest District General Police Inspectorate, the Internal Affairs Directorate, with the proposal to write up the case with a view to carrying out an investigation at the Internal Affairs Service within the Bucharest Municipality General Police Directorate.

In order to **prevent** the violation citizens' rights and liberties, the Romanian Police General Inspectorate, while fulfilling its responsibilities, will analyze that take appropriate legal actions in the following matters:

The police agents with Police Station 10 in Bucharest will be reminded the content of Articles 3 and 4 in the Law 360/2002 on the Status of the Police employee, with subsequent amendments and additions, as follows:

- art. 3: "The police employee is carrying out his professional activities in the interest of and to support the person, the community and state institutions, exclusively under the letter of the law, **by observing the principles of equity, non-discrimination, adequacy and progression**";

- art. 4: "**The police employee is compelled to observe the fundamental human rights and liberties, the Constitution and the national legislation**, the oath he swore towards Romania, the provisions of his job regulations and to carry out the orders and legal instructions of his superiors in matters pertaining to his professional activity."

Given the institutional position and role of the Ombudsman, the ECHR jurisprudence (the case Anton vs. the Romanian state) and the proposal of the Ministry for Foreign Affairs (the E.C.H.R. Government Agent) to set up an independent Authority to review the complaints filed against the police (IPCB), we believe the remit of the Ombudsman can be extended to include these aspects.

To support our proposal, we are arguing that the Department for Military, Justice, Police and Penitentiaries, apart from its given attributes, can also take over responsibility to solve complaints against the police, while observing the restrictions of independence from and unbiased treatment of the police authorities.

The institutional design of the IPCB, based on a series of jurisdictions in Europe in recent years, has turned them into a sort of Ombudsman-like specialized institution, so that the appointment of an Ombudsman for the Police is aimed at ensuring the fair, independent and effective surveillance of the system of complaints.

As regards the conclusions presented in Chapter II, point C in the Report, we would like to mention that throughout 2015 the Ombudsman was notified and solved a number of 103 petitions regarding various cases of violating children's rights.

The petitions concerned the granting of child-rearing benefits in cases of multiple pregnancies, the request of information on entrusting the child in the case of one of the parents, the rights and obligations of divorced parents towards their underage children from wedlock, the disgruntlement of one of the parents with the content of a court ruling whereby the minor is entrusted to the other parent, the inappropriate behavior of the teaching staff towards pupils, as well as the living standards in residential institutions.

Additionally, another aspect that was brought to our attention and which the Ombudsman has highlighted in its Activity Report for 2015, submitted to the two chambers of Parliament, is the lack of state budget allocations for the kindergarten costs of all children, whether they are enrolled in public or private pre-schooling units, given that not all children have a place in state kindergartens, as well as ensuring equal treatment in terms of funding per pre-school child / pupil. We are referring to Article 9, paragraph (2) in the Law 1/2011 on national education, with subsequent amendments and additions, and to the

methodology of financing within the limits of a standard price per pre-school child / pupil. According to the text of this article, "the State provides basic financing for all pre-school children and for all pupils in the compulsory elementary education public, private or confessional system. At the same time, the state ensures basic funding for vocational and certified high-school education in the public, private and confessional sectors, as well as for all public post-high school education. The funds are earmarked based on the limits of a standard cost per pupil / pre-school child, and on the methodology of the Ministry of Education, Research, Youth and Sports."

The Ombudsman has referred a total of 17 cases to itself on the protection of children and young people, the protection of people with disabilities and the right of a party aggrieved by a public authority, conducting enquiries in the following venues: the Galata Social Education Center for People with Disabilities, Iaşi County, the Town hall of Sânger village, Mureş County, the St. Spiridon Placement Center in Târgu Frumos, Iaşi County, the "Alexandru Roşca" Schooling Center for an Inclusive Education, Piatra Neamţ, the Tileagd Schooling Center for an Inclusive Education, the Town Hall of Iana village, Vaslui County, the Vaslui Directorate for Social Assistance and Child Protection, the Town Hall of the Lipovăţ commune, Vaslui County, the "St. Parascheva" Infectious Disease Hospital in Iaşi, the General Directorate for Social Assistance and Child Protection of District 6, the Suceava City Hall, SC Transport Public Local SA Suceava, the Town Hall of Boteşti commune, Neamţ County, the Tulcea General Directorate for Social Assistance and Child Protection, the "Speranţa" Placement Center, the Iaşi General Directorate for Social Assistance and Child Protection and the Town Hall of the Cornu Luncii commune, Suceava County.

For instance, in the case 8075/2015, as a result of airing on May 25, 2015, on a televisions station, the report called "The horrors in a school for children with disabilities, reported by a parent to the Ministry after his son's throat was slit with a glass shard," the Ombudsman referred the matter to itself. In this respect, the representatives of the Oradea Branch of the Ombudsman have carried out an investigation at the Tileagd Schooling Center for an Inclusive Education. Considering all the facts, the Ombudsman issued Recommendation 10 of July 30, 2015. On July 31, 2015 the Ombudsman posted on its website a press release entitled "The Ombudsman recommends measures and sanctions after the incidents at the Tileagd Schooling Center for an Inclusive Education in Bihor County." As a result of Recommendation 10/2015, the Tileagd Schooling Center for an Inclusive Education informed us of the measures taken: filing an application with the Bihor County School Inspectorate whereby requesting the appointment of a new deputy headmaster that should take charge of the training and education sessions in the afternoon (between 2 and 6 PM), an application solved by appointing a teacher as deputy headmaster, starting 01.09.2015; the three teachers involved in the incident were handed out a written warning, following the meeting of the Board of Directors on 27.07.2015; starting 01.09.2015, following a fixed timetable, all extracurricular tutors and night-shift keepers will be trained by Methodists, by the school leadership and by the Tileagd Police chief.

Referring to point C, letter c in the Report, namely the designation by the Government of a Commissioner for Children, we would like to say that the Ombudsman institution contains a deputy particularly charged with children's rights, who is coordinating the Department for the rights of children, families, young people, pensioners and people with disabilities.

As regards the remarks presented under point D, chapter II, on people with disabilities, we would like to state that in 2015, the Ombudsman conducted a total of 7 enquiries regarding health safety, the protection of people with disabilities and the right of the party aggrieved by a public authority, at the Center for Neuro-psychiatric Recovery and Rehabilitation in Hârlau, the Leorda Center for Medical Care and Assistance, Botoşani

County, the Botoşani County General Directorate for Social Assistance and Child Protection, the Mureş General Directorate for Social Assistance and Child Protection, the Bacău General Directorate for Social Assistance and Child Protection, the Gherla Penitentiary and the Comăneşti Town Hall, Bacău County.

In 2015 amendments were brought to the Law 448/2006 on the protection and promotion of the rights of people with disabilities, in the sense of broadening the scope of the rights and facilities of people with disabilities, which should ensure equal treatment with a view to the effective participation of people with disabilities in community life.

The Ombudsman institution has highlighted in its Activity Report for 2015 presented before the two Chambers of Parliament, the issue of employing people with disabilities. The report underscores the fact that Romanian legislation is in line with European legislation (Law 448/2006) and comprises facilities and rights regarding the employment of people with disabilities and elements to encourage employers to hire people with disabilities, although the legal provisions are not sufficiently applied by Romanian employers.

The Report also mentions that, although Romania ratified the Convention on observing the rights of people with disabilities, mechanisms by means of which that state fulfils its assumed obligations are not sanctioned by any legislation. Moreover, in Romania, assessment is focused on disability from a medical point of view and less on the ability of people with disabilities, while treatment is seen as predominantly medical in nature. The assessment committee should review a broader method of assessment that should test the ability of each individual, issue recommendations on the type of work they might be eligible for, and these recommendations should be included in the personal file of every person with disabilities, the Report also states.

Another problem underlined in the report is the education of people with disabilities. In what regards the education system, the Report states that it is limited and inconsistent with the eligibility of people with disabilities, it does not sufficiently develop the abilities required for an independent way of life, while the education methods employed are not sufficiently adjusted to the specific needs of the different types of disabilities. Centers for Inclusive Education were set up, where young people specialize in various trades, and which are aimed at ensuring the education and professional training of young people with special education needs.

Moreover, we would like to mention that the Department for the rights of children, young people, pensioners, people with disabilities with the Ombudsman institution has solved a number of 211 petitions referring to the rights of people with disabilities, which were related to issues regarding the faulty classification of disability categories, the non-payment of the benefits entitled to people with disabilities, the unjustified review of the category of disability and the eligibility of a person in a disability category inferior to the one previously held, the refusal of the authorities in the local public administration to employ personal assistants for people with serious disabilities who were entitled to benefit from a social worker, the delays in issuing disability eligibility certificates, exceeding the deadline for building access facilities for these underprivileged categories, the shortage of funds of paying personal assistants, the relevant public authorities' refusal to evaluate, on request, people with disabilities with a view to changing their initial eligibility.

Furthermore, the petitioners requested the expansion of legal provisions in force to include provisions according to which higher education units, whether in the public and private sphere, are forced to make available classes for students with disabilities during the education process, in the format requested in writing by these students, and to set up a specialized institution at national level to provide them with psychological and sociological counseling.

In 2015, the Ombudsman dealt with the actions undertaken by the state, by the relevant authorities, so that these categories of people should enjoy social accessibility and inclusion to an equal extent as any other person. The casuistry we have dealt with all this time has more often than not revealed the fact that the possibility of empowering and rehabilitating people, offsetting disabilities, cutting the economic and social effects of disabilities to a minimum, as well as all the imbalances linked with health care, are subjects with a negative impact on these people. Many of those who have referred their grievances to the Ombudsman see themselves as socially excluded, facing certain obstacles and barriers, lacking means of mobility, as shown in the Activity Report for 2015 the Ombudsman presented to the two Chambers of the Romanian Parliament.

Moreover, in 2015 the Department for property, labor, social protection and taxes, solved petitions related to potential violations of rights to social facilities for underprivileged people, in what regards the right to a social housing. The petitions were analyzed based on the provisions of Article 47 in the Romanian Constitution on the right to a decent living.

In this respect, the Ombudsman intervened in the following matters:

A.B. filed a complaint against the District 5 Town Hall, claiming that it refused to provide him with a housing unit, arguing that there were no such units available. On the other hand, the claimant informed he was working as a security agent for a 20-apartment building used as a social housing unit, located in 24 Mânzului Street, District 1, which had available units that hadn't yet been allocated to other legitimate claimants.

Following the actions of the Ombudsman, the District 5 City Hall informed us that the claimant had filed an application for a social home ever since 2003, arguing that his previous building of residence had been returned to its former owners, but that in 2010, when gathering the additional documents needed for his application, he no longer observed the conditions stipulated by the Housing Law 114/1996, given that on February 27, 2009, he relocated to District 6. As a result, he was redirected to the District 6 City Hall, to seek a solution to his housing problem.

As regards the apartments in 24 Mânzului Street, the Bucharest City Hall, in its notification 16194 of May 27, 2015, informed the District 5 City Hall about their structure, and the Committee for analyzing citizens' requests is due to respond to the applications.

A.F. called on the Râmnicu-Sărat City Hall for an extension of his rental agreement for a social housing unit, as well as for additional information regarding the possibility of purchasing the units by installments, but his request did not receive an answer.

Following a notification submitted by the Ombudsman to the authority in question, we were informed that the claimant got an extension of 12 months for her rental agreement. The public authority underlined that under the Housing Law 114/1996, social housing units cannot be sold, as per Article 47 in the aforementioned law.

Regarding the criticism voiced against the institutions in points C and D in the Special Report on Extreme Poverty and Human Rights, let us note that other institutions with specific responsibilities are nominated, without any mention of the Ombudsman. At the same time, referring to the argument under point F, letter e, namely that the Ombudsman institution failed to fulfill its responsibilities, we believe this is not a grounded criticism regarding the fulfillment of the responsibilities by the Ombudsman.

Regarding these circumstances we would like you to inform us about the specific matters where the Ombudsman did not fulfill its constitutional and legal role.

We want to assure you, Mr. Rapporteur, on this occasion, of the full readiness and concern of the Ombudsman towards a permanent cooperation and a constructive dialogue

with non-government organizations, on the one hand, and with the citizen, a victim of the mechanisms of governance, which are more often that no deprived of a minimum public service ethic, on the other, thus contributing to the creation of values, attitudes and governing and managing strategies that essentially make up the premises for the total disappearance of the old institutional paradigm specific of the centralized and planned system, thus laying the foundation for a modern institutional structure, based on democratic relations.

Last but not least, we would like to reiterate the fact that the Ombudsman has been cooperating with non-government associations and organizations in Romania with a view to drafting a special report on poverty. In this respect, we have obtained the initial green light from UNICEF for cooperation with respect to how poverty is affecting children, and we would like to establish other such partnerships. Our undertaking is a very complex one, which will tackle, among other things, aspects pertaining to the impact poverty has on health care, education, unemployment, etc, particularly in areas that used to be monoindustrial and where economic activity was brought to a halt, either temporarily or definitely, as well as in other special similar situations. For these very reasons the Report will entail a proportionate timeline, so that we seek to finalize it by the end of the current year or by early 2017. Without a reasonable doubt, the report will also be based on the findings of the report the UNICEF will issue on poverty in the European Union Member States (including Romania) and in developed countries, as well as on the conclusions of your report.